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FEDERAL REGISTER

Vol. 79 Wednesday,
No. 10 January 15, 2014

Pages 2581–2760

OFFICE OF THE FEDERAL REGISTER

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1222

[Docket No. CPSC–2012–0067]

Safety Standard for Bedside Sleepers

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Danny Keysar Child Product Safety Notification Act, Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the United States Consumer Product Safety Commission (Commission or CPSC) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be ''substantially the same as'' applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. The Commission is issuing a safety standard for bedside sleepers in response to the direction under Section 104(b) of the CPSIA.

DATES: The rule is effective on July 15, 2014. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of July 15, 2014.

FOR FURTHER INFORMATION CONTACT: Daniel Dunlap, Compliance Officer, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301–504–7733; email: *ddunlap@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background and Statutory Authority

The Consumer Product Safety Improvement Act of 2008, (CPSIA, Pub. L. 110–314), was enacted on August 14, 2008. Section 104(b) of the CPSIA, part of the Danny Keysar Child Product Safety Notification Act, requires the Commission to: (1) Examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, and (2) promulgate consumer product safety standards for durable infant and toddler products. These standards are to be ''substantially the same as'' applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product.

The term ''durable infant or toddler product'' is defined in section 104(f)(1) of the CPSIA as a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years. Bassinets and cradles are specifically identified in section 104(f)(2)(L) as durable infant or toddler products. Bedside sleepers are similar to bassinets, and many bedside sleepers also function as bassinets. In addition, some bedside sleepers are accessories to play yards, which are explicitly identified in section 104(f)(2)(F).

On December 10, 2012, the Commission issued a notice of proposed rulemaking (NPR) for bedside sleepers (77 FR 73345). The NPR proposed to incorporate by reference the voluntary standard, ASTM F2906–12, ''Standard Consumer Safety Specification for Bedside Sleepers,'' with certain changes to provisions in the voluntary standard to strengthen the ASTM standard.

In this document, the Commission is issuing a safety standard for bedside sleepers. Pursuant to Section 104(b)(1)(A), the Commission consulted with manufacturers, retailers, trade organizations, laboratories, consumer advocacy groups, consultants, and members of the public in the development of this proposed standard, largely through the ASTM process. The rule incorporates the voluntary standard developed by ASTM International (formerly the American Society for Testing and Materials), ASTM F2906–13, ''Standard Consumer Safety Specification for Bedside Sleepers'' (ASTM F2906–13), by reference, and requires bedside sleepers to be tested to 16 CFR part 1218, the Safety Standard for Bassinets and Cradles (bassinet standard).

B. The Product

ASTM F2906–13 defines ''bedside sleeper'' as ''a rigid frame assembly that may be combined with a fabric or mesh assembly, or both, used to function as sides, ends, or floor or a combination thereof, and that is intended to provide a sleeping environment for infants and is secured to an adult bed.'' A ''multi-mode product'' is ''a unit that is designed and intended to be used in more than one mode (for example, a play yard, bassinet, changing table, hand held carrier, or bedside sleeper).'' A bedside sleeper is intended to be secured to an adult bed to permit newborns and infants to sleep close by an adult without being in the adult bed. Bedside sleepers currently on the market have a horizontal sleep surface that typically is 1 inch to 4 inches below the level of the adult bed's mattress. The side of the bedside sleeper that is adjacent to the adult bed can usually be adjusted to a lower position, a feature that differentiates bedside sleepers from bassinets, where all four sides of a bassinet are the same height. Current bedside sleepers range in size from about 35″ x 20″ to 40″ x 30.″ Bedside sleepers may have rigid sides, but they are most commonly constructed with a tube frame covered by mesh or fabric. Bedside sleepers are intended for use with children up to the developmental stage where they can push up on hands and knees (about 5 months). This is the same developmental range for the intended users of bassinets.

Several manufacturers produce multiuse (or multimode) bedside sleeper products that can convert into bassinets and/or play yards. Most bedside sleeper products can be converted into a bassinet by raising the lowered side to create four equal-height sides, and a few also convert into both a bassinet and play yard. Some play yards include bedside sleeper accessories, which when attached, convert the play yard into a bedside sleeper; and some bassinets convert into bedside sleepers. All of the tube-framed products that CPSC staff has evaluated may be collapsed for storage and transport. A bedside sleeper that can be used in additional modes would need to meet

each applicable standard. For example, a bedside sleeper that converts to a bassinet must meet the bedside sleeper standard and the bassinet standard.

C. Incident Data

The preamble to the NPR summarized the incident data involving bedside sleepers reported to the Commission from January 2001 through December 2011. 77 FR 73345 (December 10, 2012). The data was extracted on January 24, 2012. CPSC's Directorate for Epidemiology staff identified 40 cases of bedside sleeper-related incidents from 2001 to 2011, including four fatalities and 36 nonfatal incidents (with and without injuries). Since the NPR, the incident data have been updated to include bedside sleeper-related incident data reported to the Commission between January 24, 2012 and May 15, 2013.

Since the extraction of the data presented in the NPR, CPSC staff has received four new reports involving bedside sleepers. One of the reports was a consumer query regarding a recalled product and did not involve an actual incident. The rest of the reports involved no fatalities or injuries. The infants identified in the incident reports ranged in age from 1 to 6 months.

The hazards reported in the new incidents were consistent with the hazard patterns identified among the 40 incidents presented in the NPR briefing package. The hazard scenarios reported in 24 of the 40 incidents (60 percent) were attributed to some sort of failure/defect or a potential design flaw in the product.

Among the four new reports, two incidents were classified under *miscellaneous product-related issues* concerning the *poor design* and a *broken/detached component* of the product. In the incident reporting poor design, the consumer expressed concern that the fabric side could create a suffocation hazard when the child's face is against the fabric; the consumer reportedly stopped using the product. The second incident involved a six-month-old who fell onto the floor from a recalled, multimode product when the horizontal bar that converts the product from a bedside sleeper to a bassinet, broke off or detached. No injury was reported, and it is unclear whether the consumer was aware of the recalled status of the product. The third incident is categorized as an *assembly instruction issue,* where it appears that the consumer did not properly follow the assembly instructions. The last report was a *CPSC recall-related consumer query;* no actual incident was involved.

D. Overview of ASTM F2906

ASTM first published a voluntary standard for bedside sleepers, ASTM F2906–11, in December 2011. ASTM F2906 specifically addressed hazards associated with bedside sleepers, including incidents involving the creation of a hazardous gap between the product and an adult mattress, by requiring the successful completion of three disengagement tests. The tests help ensure that the securing components can withstand forces that may be exerted on the product by either the child or an adult, while sleeping. The gap must be no more than 0.5 in. when the product is installed onto the adult bed, per each manufacturer's directions. When a 25-lb. horizontal force is applied near the attachment system or corners, the gap may not exceed 1.0 in. To simulate an adult rolling into a bedside sleeper while sleeping, a gap greater than 1.0 in. may not be created after the application and release of a 50-lb. horizontal force to the bedside sleeper's corners. The inclusion of these anti-gap requirements serve to mitigate the foreseeable head and neck entrapment hazards posed by bedside sleepers. In addition, bedside sleepers must also satisfy the minimum side-height requirement for bassinets (the upper surface of the non-compressed mattress of a bassinet/cradle must be at least 7.5 inches lower than the upper surface of the lowest side in all intended bassinet/cradle use positions), with the exception of the lowered side rail (the height of the side rail in the lowest position shall be no less than 4 inches when measured from the top of the uncompressed bedside sleeper mattress to the top of the lowered side rail, when the mattress support is in its highest position).

Bedside sleepers and bassinets share a significant number of hazard patterns because both products are intended to be used by children with the same developmental abilities and for the same purpose. Many bedside sleepers also function as bassinets. Accordingly, the bedside sleepers voluntary standard requires beside sleepers to be tested to the bassinet standard (ASTM F2194).

1. Proposed Rule

In the NPR, CPSC identified 24 incidents attributed to defect or potential design flaws in bedside sleepers. The hazards associated with these incidents included: Issues with the adjustable fabric cover over the metal bars on the side that lowered in the bedside sleeper mode (9 incidents); poor assembly instruction (6 incidents); and miscellaneous other product-related issues (9 incidents). To address these incidents, the Commission proposed in the NPR to adopt by reference, ASTM International's voluntary standard, ASTM F2906–12, *Standard Consumer Safety Specification for Bedside Sleepers,* with a few additions to strengthen the standard. ASTM F2906–12 also required that, in addition to the tests provided in ASTM F2906–12, the bedside sleeper must be tested to the bassinet standard (ASTM F2194). Additionally, multimode products must also be tested to each applicable standard associated with the product's use modes.

In the NPR, the Commission proposed adding clarifying language to ASTM F2906–12 so that the hazards associated with play yard bassinet misassembly and fabric-sided enclosed openings would also be addressed in bedside sleepers for bedside sleeper accessories. As discussed in the preamble to the NPR, for bassinets/cradles with fabric sides, a fully bounded opening may not be created that allows the complete passage of the torso probe (based on a torso diameter of a 5th percentile, 0 to 2-month-old infant) when tested in accordance with the fabric release test methods for enclosed openings. However, the test does not apply to play yard bassinet accessories. Bassinet accessories to play yards (that cannot be converted to bedside sleepers) are usually held in place by fasteners that clip to the top of the play yard's railing. If the fasteners were left unclipped, the bassinet would fall, rendering the product untestable, due to the complete collapse of the bassinet attachment. Unlike bassinet play yard accessories, a bedside sleeper play yard accessory could have fasteners left unclipped (through the detachment of snaps/Velcro®) where the bedside sleeper with the lowered side does not completely collapse and appears functional. As a result, the Commission determined that all bedside sleeper play yard accessories should be subject to the requirements of the bassinet standard's fabric-sided enclosed openings test (without the exemption for bassinet play yard accessories), given the entrapment and suffocation hazards presented when a bedside sleeper's removable cover (liner or shell) is either not used or not secured properly.

To address this hazard, the Commission proposed to add a new definition for ''bedside sleeper accessory'' and eliminate the fabric-sided, bounded-opening performance requirement exemption currently granted to play yard bassinet accessories. The definition proposed was: ''bedside sleeper accessory, n—an

elevated sleep surface that attaches to a non-full-size crib or play yard, designed to convert the product into a bedside sleeper intended to have a horizontal sleep surface while in a rest (non-rocking) position.'' In addition, the Commission proposed to add a new section: ''Bedside Sleeper Accessory Fabric-Sided Enclosed Openings—A bedside sleeper accessory shall meet the F2194 performance requirement ''Fabric-Sided Enclosed Openings.'' However, a bedside sleeper would be exempt from this requirement if the bedside sleeper collapsed under its own weight or the sleep surface tilts by more than 30 degrees.

The Commission also proposed additional language to address play yard bedside accessory misassembly. The Commission had already proposed a requirement to address consumer misassembly of key structural elements for bassinet accessories to play yards in the play yard standard, ASTM F406. However, the proposed play yard standard did not include specific language for a misassembled bedside sleeper accessory. Accordingly, the Commission proposed to add a new section to include bedside sleepers: ''Bedside Sleeper Play Yard Accessories Missing Key Structural Elements: A bedside sleeper accessory shall meet the F406 general requirement ''Bassinet/Cradle Accessories Missing Key Structural Elements.''

2. Recent Developments in the Play Yard Standard and Bassinet Standard

After the the Commission published the NPR for bedside sleepers in the **Federal Register**, the ASTM play yard subcommittee worked closely with the ASTM bassinet subcommittee to address hazards related to bassinet accessory misassembly. The subcommittees decided to address the hazards associated with bassinet accessory misassembly in two different ASTM standards: (1) The play yard standard, ASTM F406–13, *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards,* now addresses safety issues related to bassinet accessory attachment components (*i.e.,* structures that attach the bassinet accessory to the play yard); and (2) the bassinet standard, ASTM F2194–13, *Standard Consumer Safety Specification for Bassinets and Cradles,* addresses safety issues related to mattress support rods (and all other structures that ensure that the bassinet accessory mattress is flat and stable) through the segmented mattress-flatness test contained in the bassinet standard. These requirements are now part of the current ASTM standards for play yards, ASTM F406–13, and for bassinets/cradles, ASTM F2194–13.

On August 19, 2013, the Commission issued an amendment to the *Safety Standard for Play Yards,* to incorporate by reference the most recent version of ASTM's play yard standard, ASTM F406–13, to address the hazards associated with misassembly of play yard bassinet accessories. 78 FR 50328. The play yard standard, ASTM F406–13, now addresses safety issues related to bassinet accessory attachment components (*i.e.,* structures that attach the bassinet accessory to the play yard).

On October 23, 2013, the Commission issued a final rule for bassinets, *Safety Standard for Bassinets and Cradles,* to incorporate by reference the most recent version of ASTM's bassinet standard, ASTM F2194–13, to address safety issues related to mattress support rods (and all other structures that ensure that the bassinet accessory mattress is flat and stable) through the segmented mattress-flatness test contained in the bassinet standard. 78 FR 63019. In addition, the Commission's bassinet rule required several modifications to ASTM F2194–13. These modifications:

- Added new definitions, a test requirement, and test procedure for a new performance requirement pertaining to the stability of bassinets with removable bassinet beds;
- Revised the current stability test procedure by specifying the use of a newborn CAMI dummy, rather than the six-month infant CAMI dummy;
- Revised the pass/fail criterion for the segmented mattresses flatness test to make it more stringent;
- Excluded segmented mattress flatness test bassinets that are less than 15 inches wide along the width of the mattress; and
- Revised the scope to clarify that a multimode or combination product must meet the requirements of all standards associated with its use modes.

These additional requirements are codified at 16 CFR part 1218, *Safety Standard for Bassinets and Cradles.*

3. Current ASTM Bedside Sleeper Standard (ASTM F2906–13)

The current version of the voluntary standard for bedside sleepers adopts the same performance requirement and test method in ASTM's play yard standard, ASTM F406–13, which addresses the hazards associated with misassembly of play yard bassinet accessories, for bedside sleeper accessories. To provide clearer definitions of a ''bedside sleeper accessory,'' ASTM F2906–13 now provides definitions for ''bedside sleeper accessory'' and ''bedside sleeper accessory attachment components.'' ASTM F2906–13 provides that a bedside sleeper accessory is an elevated sleep surface that attaches to a play yard designed to convert the product into a bedside sleeper and is intended to have a horizontal sleep surface while in a rest (non-rocking) position. Bedside sleeper accessory attachment components are defined as components that provide the means of attachment for a bedside sleeper accessory to a play yard.

ASTM F2906–13 also adds a definition of a ''bedside sleeper shell.'' As explained in the NPR, there are demonstrated hazards presented when a bedside sleeper's removable cover, including a liner or shell, is either not used or not secured properly. 77 FR 73348–49. Accordingly, ''bedside sleeper shell'' is defined as a textile cover for bedside sleeper accessory that incorporates structural elements such as tubing, permanently attached clips or hooks, or other elements that allow it to be suspended from the play yard frame.

In addition, ASTM F2906–13 addresses the hazards associated with misassembly of play yard bedside sleeper accessories. The standard adopts the same requirements set forth in ASTM F406–13 for bassinet/cradle accessories missing accessory attachment components, and an associated test method for misassembly failure under the bassinet/cradle accessory sleep surface collapse/tilt test. Under the current ASTM F2906–13 standard, bedside sleeper accessories must have all accessory attachment components permanently attached to the bedside sleeper accessory. If bedside sleeper accessories that require consumer assembly of accessory attachment components can be assembled and attached to the product with any accessory attachment component missing, the accessory must either: (1) Collapse such that any part of the mattress pad contacts the bottom floor of the play yard or is not able to support 4.0 lbm test mass tested; or (2) the bedside sleeper accessory sleep surface must tilt by more than 30 degrees when tested to the bedside sleeper accessory sleep surface collapse/tilt test.

ASTM F2906–13 also continues to require bedside sleepers to meet the requirements of the bassinet standard, ASTM F2194, with the exception of the height of the lowered fourth side. Most bedside sleepers also function as bassinets. The intended users are identical, and the majority of the hazards are identical. Because bedside sleepers are already required to be tested to the bassinet standard, ASTM F2194, all of the requirements and test methods in ASTM 2194 are not restated

in the bedside sleeper standard ASTM F2906–13. However, ASTM F2906–13 specifically adds a new section on fabric release test methods for enclosed openings for bedside sleeper accessories. As stated above, although the bassinet standard, ASTM F2194, contains a requirement for fabric-sided enclosed openings, the test does not apply to play yard bassinet accessories. Bassinet accessories to play yards (that cannot be converted to bedside sleepers) are usually held in place by fasteners that clip to the top of the play yard's railing. If the fasteners were left unclipped, the bassinet would fall, rendering the product untestable, resulting in test failure. However, the unique hazard associated with bedside sleepers requires testing for fabric-sided enclosed openings because bedside sleepers have a lowered fourth side that can create a hazard when the removable cover or shell is either not used or not secured properly. ASTM F2906–13 addresses this hazard by making explicit that the fabric release test methods for enclosed openings apply to all bedside sleepers and bedside sleeper accessories.

In this rule, the CPSC incorporates by reference ASTM F2906–13 because the Commission's proposed modifications in the NPR have been adopted in ASTM F2906–13, including the requirements and test methods for bedside sleeper accessories missing accessory attachment components and bedside sleeper accessory fabric-sided enclosed openings. In addition, because bedside sleepers are required to be tested to the bassinet standard, and because the Commission recently issued a mandatory standard for bassinets (incorporating the ASTM bassinet standard with modifications), which was codified at 16 CFR part 1218, the Commission adopts ASTM F2906–13 with revisions to change the references to the voluntary bassinet standard, ASTM F2194, in the standard with references to the mandatory bassinet standard, 16 CFR part 1218.

E. Response to Comments

The Commission received five comments in response to the NPR from consumers, industry, consumer advocacy groups, and trade associations. A summary of each comment topic and response is provided.

1. General Comments

Comment: One commenter generally supported the proposed rule. Another commenter stated that the responsibility for the safe use of products lies with the parent of the young child.

Response: Section 104 of the CPSIA requires the Commission to examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products and to promulgate mandatory standards. The Commission has identified bedside sleepers as a durable infant or toddler product. Bedside sleepers are similar to bassinets and function also, in many instances, as bassinets. The Commission has concluded that more stringent requirements would further reduce the risk of injury associated with the product. Accordingly, the Commission is issuing a safety standard for bedside sleepers in response to the direction under section 104 of the CPSIA.

2. Mandatory Standards Should Be Finalized

Comment: Several commenters stated that the standards for play yards and bassinets should be finalized, including the issues related to fabric-sided enclosed openings and consumer misassembly with missing components before they are applied to bedside sleepers. In addition, two commenters stated that to avoid confusion, the specific requirements of ASTM F406 and ASTM F2194 should be inserted into ASTM F2906, rather than simply referencing those standards.

Response: ASTM has finalized both the play yard standard, ASTM F406–13, and the bassinet standard, ASTM F2914–13. The Commission has made some additional modifications to ASTM F2194–13. The requirements for fabric-sided enclosed openings have been adopted in ASTM F2906–13 for bedside sleeper accessories. The requirements for misassembly of play yard bassinet accessories have also been adopted in ASTM F2906–13 for bedside sleeper accessories. Those provisions have been included in ASTM F2906–13.

ASTM's bedside sleeper standard, ASTM F2906–13 did not include all the modifications that the Commission subsequently made to the CPSC bassinet standard. Therefore, the final rule for bedside sleepers requires reference to 16 CFR part 1218 to reflect those modifications.

3. Redundant Product Safety Feature

Comment: One commenter stated that the play yard bassinet accessory misassembly requirement may compel manufacturers to eliminate redundant safety features that are already a component of the product. The commenter stated that removal of the mattress pad support bars does not replicate or address the misassembly incident or result in a safer product.

Response: This comment has been addressed in the Commission's final safety standards for play yards and for bassinets and cradles. The play yard standard, ASTM F406–13, addressed safety issues related to bassinet accessory attachment components (*i.e.,* structures that attach the bassinet accessory to the play yard). The bassinet standard, ASTM F2194–13, addressed the issue of mattress pad support rods (and all other structures that keep the bassinet accessory mattress flat and stable) through the segmented mattress flatness test. ASTM F2194–13 now requires that bassinets with removable mattress support rods be tested both with and without the mattress support rods. In addition, the Commission's modifications to ASTM F2194 in the final rule for the safety standard for bassinets included a change to the pass/fail criterion for the mattress flatness test and revisions to the stability test procedures for bassinets. These safety features are not redundant because each product must meet the standards associated with the product's use mode. 78 FR 50332 and 63025.

4. Intellectual Property

Comment: One commenter stated that there may be patents that restrict options for manufacturers. For example, the commenter stated that there is a patent application pending, detailing 10 different methods to ''stiffen a play yard mattress pad before the mattress is used in a play yard bassinet accessory.''

Response: This comment has been addressed in the final rule on the safety standard for play yards. The Commission stated that the concern regarding the means of stiffening a mattress pad is no longer an issue for the play yard rule because the play yard bassinet accessory misassembly requirement no longer applies to mattress support rods or any other methods that might be used to stiffen a mattress pad. Instead, the play yard rule focuses only on accessory attachment components that attach the bassinet accessory to the play yard. Moreover, the bassinet standard, which addresses mattress flatness, does not require a specific design to pass the standard, and a bassinet can meet the mattress-flatness test in a variety of ways without necessarily implicating patented technology. 78 FR 50333.

5. Requirements for Stability of Removable Bassinet Beds

Comment: One commenter stated that adding the removable bassinet bed stability requirement is premature. The commenter stated the belief that the requirement should be removed from

the regulation and that ASTM should be allowed to continue work on this issue.

Response: This comment has already been addressed in the Commission's final consumer product safety standard for bassinets and cradles, which likewise would apply to bedside sleepers with a removable bed.

Specifcally, the Commission has provided manufacturers with options to meet the removable bassinet bed requirements. The Commission stated that any product containing a removable bassinet bed with a latching or locking device intended to secure the bassinet bed to the base/standshall comply with at least one of the following: (1) The base/stand shall not support the bassinet bed (*i.e.,* the bassinet bed falls from the stand and contacts the floor or the base/stand collapses when the bassinet bed is not locked on the base/stand); (2) the lock/latch shall automatically engage under the weight of the bassinet bed (without any other force or action) in all lateral positions; (3) the sleep surface of the bassinet bed shall be at an angle of at least 20 degrees from a horizontal plane when the bassinet bed is in an unlocked position; (4) the bassinet/cradle shall provide a false latch/lock visual indicator(s). At a minimum, an indicator shall be visible to a person standing near both of the two longest sides of the product; or, (5) the bassinet bed shall not tip over and shall retain the CAMI newborn dummy. 78 FR 63022.

6. Ambiguity in Catastrophic Failure Evaluation

Comment: One commenter objected to the 30°-tilt requirement in the catastrophic failure test. The commenter stated that the requirement is not adequately supported by scientific data and expressed the belief that this test is counterintuitive to the typical design approach by manufacturers of building in redundancies that prevent catastrophic failure.

Response: This comment has been addressed in the Commission's final rule on the safety standard for play yards. Bedside sleepers that are used in the play yard mode must also meet the play yard requirements. In the play yard context, the Commission explained that the catastrophic failure test is an alternative to the permanent affixture test. The Commission stated that the angle of 30 degrees represents a safety factor of three times the 10 degrees maximum safe sleep surface angle of incline. The Commission noted that CPSC staff, as well as ASTM members, can reconsider the tilt angle requirement during future revisions should evidence be presented indicating that the angle is too small or large. 78 FR 50332.

In addition any built in redundancies in testing have been resolved because bassinet accessory attachment components are addressed in the play yard standard, and because bassinet accessory mattress support rods are addressed in the bassinet standard. The play yard bassinet accessory misassembly requirement in F406–13 now applies to accessory attachment components. Misassembly issues related to mattress support rods are now addressed in the standard for bassinets and cradles. Bassinets with removable mattress support rods are required to be tested both with and without the mattress support rods. The bassinet also must pass the segmented mattress flatness test, with and without the mattress support rods. Accordingly, all known misassembly issues are addressed in either the play yard or the bassinet final standards.

6. Proposed Segmented Mattress Flatness

Comment: One commenter urged the CPSC to adopt the ASTM pass/fail criteria for the surface mattress flatness requirement proposed in the Bassinet NPR. The commenter further asserted that the repeated testing to ASTM F2194 surface flatness requirements has shown a tendency toward a lack of repeatability and that an established principle of looking at the mean of several trials should be used.

Response: This comment has been addressed in the final rule on the safety standard for bassinets. The Commission determined that mattress flatness requirement is primarily aimed at incidents involving bassinet/play yard combination products that tend to use segmented mattresses, where seams could pose a suffocation and positional asphyxiation hazard. Under the Commission's pass/fail criteria, a bassinet attachment with a segmented mattress will fail if any tested seam creates an angle greater than 10 degrees. ASTM F2194–13 allowed measured angles between 10 degrees and 14 degrees to pass, as long as the mean of three measurements on that seam is less than 10 degrees. The 14-degree angle was based on an extrapolation of angles formed by dimensions of average infant faces. However, the Commission declined to use the average infant facial dimension as the basis for this requirement. Instead, in the final rule on bassinets, the Commission adopted the smallest users' anthropometrics to set the test requirement of 10 degrees maximum for each measurement taken. In addition, the bassinet final rule exempts from the mattress flatness requirement bassinets that are less than 15 inches across. The Commission found that these products do not pose the hazard the requirement is intended to address, and they are also not wide enough to test using the required procedures and equipment. 78 FR 63023.

7. Assembly and Instructions

Comment: One commenter requested that consistency be maintained with previously adopted mandatory regulations regarding assembly instructions and visual indicators as are demonstrated, for example, in the full-size crib requirement (16 CFR part 1219).

Response: Although the language in the full-size crib standard (16 CFR part 1219) and the ASTM F2906–13 and ASTM F2194–13 standards is not identical, the Commission finds that the content is sufficiently consistent among the standards regarding assembly instructions and visual indicators to convey the necessary information.

8. Attachment Mechanism

Comment: One commenter stated that a gap between the bedside sleeper and an adult bed creates a risk of injury to an infant in both the bedside sleeper and the adult bed. The commenter recommended that CPSC include an attachment mechanism to be composed of only one part that is then attached to the bedside sleeper, as required in the portable children's bed rail standard, ASTM F2085–12. The commenter stated that the attachment mechanism would not need to be permanently attached to bedside sleepers that are also used in other modes without the attachment, but all necessary parts for attachment should be connected to each other, reducing the chance that caregivers will leave key elements out of the attachment process.

Response: The CPSC is not aware of any incidents in which an infant became entrapped in a gap between a bedside sleeper and an adult bed with or without missing key elements of the attachment mechanism. There are very few single-mode bedside sleeper products. Most bedside sleepers are multiuse with other modes, such as bassinets and play yards. Although the commenter indicated the attachment would not need to be connected permanently when used in other modes that do not require the attachment, CPSC staff is concerned that the attachment could present a risk of injury, such as strangulation or entrapment with the attachment cord or strap, when not in use. The addition of

requirements to prevent entrapment in a gap between the bedside sleeper and the adult bed on very few single-mode bedside sleeper products at the expense of adding potential strangulation or entrapment risks does not appear warranted. At this time, the Commission does not support the inclusion of a requirement for a one-piece attachment device that would need to be installed permanently on single-mode bedside sleepers and also would need to be removable on bedside sleepers with free standing bassinet or play yard use modes.

9. Pictograms and Warnings

Comment: One commenter suggested that adding pictograms to the warnings would effectively convey the hazard and avoid language barriers that minimize comprehension of these warning labels. The commenter also stated that the CPSC should add a warning that would advise the caregiver of the danger adult bedding can pose if bedding is allowed to fall into the bedside sleeper.

Response: Currently, all bedside sleeper products are required to comply with the marking and labeling requirements of the bassinet standard. Although a well-developed and tested pictogram could increase comprehension, designing effective, well-understood graphics can be difficult. Poor understanding of graphics may cause consumer confusion, the most severe of which is a critical confusion, where the graphic is interpreted to mean the opposite of the intention. Therefore, any warning pictogram should be developed with empirical study and well tested on the target audience. In addition, there are a number of products for which a soft bedding pictogram could be useful, such as bedside sleepers, bassinets, cribs, play yards, inclined sleep products, and others. Because of the increasing number of multimode products, the Commission believes a cross-product ad hoc working group may be the best place to develop such a pictogram and would allow testing and validation of the pictogram. Subject to budgetary and staff resources, CPSC staff would support participation in any such group, and should the need arise, staff will consider future action once such a graphic is developed.

10. Effective Date Marking

Comment: One commenter stated that the CPSC should add a marking on products that are manufactured after the effective date so that consumers can clearly identify products that meet the mandatory standard.

Response: On Feburary 13, 2013, a final rule implementing *Testing and Labeling Pertaining to Product Certification,* 16 CFR part 1107 (the 1107 rule), became effective. Under the 1107 rule, a manufacturer or importer may label a certified compliant product as ''Meets CPSC Safety Requirements.'' Because producers are already allowed to label compliant products as such under the 1107 rule, including this option in the bedside sleeper standard would be redundant. Accordingly, the Commission will not require additional markings at this time.

F. Final Rule

The CPSC is incorporating by reference ASTM F2906–13 because the Commission's proposed modifications in the NPR have been adopted in ASTM F2906–13, including the requirements and test methods for bedside sleeper accessories missing accessory attachment components and bedside sleeper accessory fabric-sided enclosed openings. In addition, because bedside sleepers are required to be tested to the bassinet standard, and because the Commission recently issued a final rule incorporating the ASTM standard for bassinets with some modifications, codified at 16 CFR part 1218, the references to the voluntary bassinet standard (ASTM F2194) are revised to reflect the current mandatory bassinet standard, 16 CFR part 1218.

Specifically, ASTM F2194 is referenced in sections 5.1, 5.1.1, 7.1 and 8.1. All of the references to ASTM F2194 are replaced with 16 CFR part 1218 as follows:

- 5.1 Prior to or immediately after testing to this consumer safety specification, the bedside sleeper must be tested to 16 CFR part 1218. Multimode products must also be tested to each applicable standard. When testing to 16 CFR part 1218, the unit shall be freestanding, and not be secured to the test platform, as dictated elsewhere in this standard.
- 5.1.1 The bassinet minimum side height shall be as required in 16 CFR part 1218, with the exception of a lowered side rail as permitted in 5.4.
- 7.1 All bedside sleeper products shall comply with the marking and labeling requirements of 16 CFR part 1218.
- 8.1 All bedside sleeper products shall comply with the instructional literature requirements of 16 CFR part 1218.

G. Effective Date

The Administrative Procedure Act (APA) generally requires that the effective date of the rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). Only one commenter addressed the effective date and supported the 6-month effective date proposed in the NPR. To allow time for bedside sleepers to come into compliance with the standard, the bedside sleeper standard will become effective 6 months after publication of a final rule in the **Federal Register**.

H. Regulatory Flexibility Act

1. Introduction

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires agencies to consider the impact of proposed and final rules on small entities, including small businesses. Section 604 of the RFA requires that the Commission prepare a final regulatory flexibility analysis when promulgating final rules, unless the head of the agency certifies that the rule will not have a significant impact on a substantial number of small entities. The final regulatory flexibility analysis must describe the impact of the proposed rule on small entities and identify any alternatives that may reduce the impact. Specifically, the final regulatory flexibility analysis must contain:

- A succinct statement of the objectives of, and legal basis for, the rule;
- A summary of the significant issues raised by public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;
- A description of, and, where feasible, an estimate of, the number of small entities to which the rule will apply;
- A description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities subject to the requirements and the type of professional skills necessary for the preparation of reports or records; and
- A description of the steps the agency has taken to reduce the significant economic impact on small entities, consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the rule, and why each one of the other significant alternatives to the rule considered by the agency, which affect the impact on small entities, was rejected.

2. The Market

Bedside sleepers are typically produced and/or marketed by juvenile product manufacturers and distributors. Currently, there are at least five known manufacturers supplying bedside sleepers to the U.S. market. Four are domestic manufacturers, including one manufacturer that dominates the market. The fifth is a foreign manufacturer who ships products directly to the United States. There may be additional unknown small manufacturers and importers operating in the U.S. market as well.

The Juvenile Products Manufacturers Association (JPMA), the major U.S. trade association that represents juvenile product manufacturers and importers, runs a voluntary Certification Program for several juvenile products. Under this program, products voluntarily submitted by manufacturers are tested against the appropriate ASTM standard, and only passing products are allowed to display JPMA's Certification Seal.

Currently, JPMA does not have a Certification Program for bedside sleepers, and no firm claims to meet the ASTM voluntary standard. However, three firms supply multimode products, which in one mode, are compliant with the associated ASTM voluntary standard. Two firms claim compliance with the ASTM standard for bassinets; one firm is JPMA-certified as compliant, and the other claims compliance with the ASTM bassinet standard. A third firm supplies play yards that are JPMA-certified as compliant with the ASTM play yard/non-full-size crib standard.

3. Other Federal or State Rules

There are two federal rules that impact the bedside sleeper standard: (1) *Testing and Labeling Pertaining to Product Certification* (16 CFR part 1107); and (2) *Requirements Pertaining to Third Party Conformity Assessment Bodies* (16 CFR part 1112).

Under 16 CFR part 1107, every manufacturer of a children's product that is subject to a children's product safety rule is required to certify, based on third party testing by a CPSC-accepted conformity assessment body (or laboratory), that the product complies with all applicable safety rules. Because bedside sleepers will be subject to a mandatory children's product safety rule, the product will also be subject to the third party testing requirements of section 14(a)(2) of the CPSA.

Under 16 CFR part 1112, the Commission established requirements for the accreditation of third party conformity assessment bodies to test for conformance with a children's product safety rule in accordance with section 14(a)(2) of the CPSA. This rule amends 16 CFR part 1112 to establish the requirements for accepting the accreditation of a conformity assessment body to test for compliance with the bedside sleeper standard.

4. Impact on Small Businesses

There are four domestic firms known to be marketing bedside sleepers in the United States. Under U.S. Small Business Administration (SBA) guidelines, a manufacturer of bedside sleepers is small if it has 500 or fewer employees. Based on these guidelines, all four domestic manufacturers are small. The economic impact on small domestic manufacturers depends on two factors: (1) Whether their products are multiuse products and are already in compliance with one or more existing standards; and (2) the proportion of their total sales or revenue that bedside sleepers constitute.

Three of the four domestic manufacturers produce a multiuse product or a product that may be used as a bedside sleeper as well as a bassinet or play yard. These three multiuse products are required to comply with other existing standards, and there is significant overlap between standards. For example, firms that produce multimode bedside sleeper/play yards are already required to comply with the mandatory play yard standard. In addition, these three multiuse products also function as bassinets and will need to comply with the bassinet standard prior to the effective date for the bedside sleeper final rule. If the products comply with applicable standards pertaining to other use modes, these products will require only slight, incremental modifications. Thus, assuming that these multiuse bedside sleeper products comply or will comply with the standards applicable to other use modes, the three producers of multiuse products are unlikely to experience an economically significant impact due to the bedside sleeper draft final rule.

Two of the domestic manufactures rely almost solely on the sales of bedside sleepers, including a bedside sleeper accessory, as their revenue source. This includes one of the firms mentioned above which produces a multiuse product that will need to comply with an existing standard prior to any effective date for the bedside sleeper draft final rule. Again, based on the assumption that this firm's products will comply with other existing standards, the bedside sleeper rule should not result in a significant economic impact on this firm. The second firm, however, produces a product that serves as a standalone bedside sleeper. Staff believes that this firm's standalone bedside sleeper would need several modifications to meet the requirements in the bedside sleeper standard. The firm will need at least two modifications (adding a lowered fourth side and complying with new stability requirements). However, the firm's plans for modifying the product and costs of compliance are unknown. Even if the cost of each modification taken individually is small, total costs of compliance could be modest or high. Because the majority of this firm's revenues is tied to bedside sleepers and assuming that several modifications may be needed to comply with the bedside sleeper standard, this firm is more likely experience an economically significant impact as a result of the bedside sleeper mandatory standard.

Under section 14 of the CPSA, bedside sleepers are also subject to third party testing and certification. Once the new requirements become effective, all manufacturers will be subject to the additional costs associated with the third party testing and certification requirements under the testing rule, *Testing and Labeling Pertaining to Product Certification* (16 CFR part 1107). Third party testing will pertain to any physical and mechanical test requirements specified in the bedside sleeper final rule; lead and phthalates testing is already required. Third party testing costs are in addition to the direct costs of meeting the bedside sleeper standard.

Based on information from the durable nursery product industry and confidential business information supplied for the development of the third-party testing rule, testing to a single ASTM voluntary standard could cost around $500–$600 per model sample. On average, each small domestic manufacturer supplies two different models of bedside sleepers to the U.S. market annually. Therefore, if third-party testing to the requirements in the bedside sleeper standard were conducted every year on a single sample for each model, third-party testing costs associated for each manufacturer would be about $1,000–$1,200 annually. Based on an examination of estimates of firms' revenues from recent Dun & Bradstreet reports, the impact of third-party testing to ASTM F2906–13 is not likely to be economically significant if only one bedside sleeper sample per model is required. However, if more than one sample would be needed to meet the testing requirements, third-party testing

costs could have an economically significant impact on two of the small manufacturers (*i.e.,* based on SBA guidelines, staff typically uses 1 percent of gross revenue as the threshold for determining economic significance and testing costs could be 1 percent or more of gross revenue). The exact number of samples needed to meet the ''high degree of assurance'' criterion as required in 16 CFR part 1107 is unknown.

5. Alternatives

An alternative to the rule would be to set an effective date later than 6 months, which is generally considered sufficient time for suppliers to come into compliance with a rule. Setting a later effective date would allow suppliers additional time to develop compliant bedside sleepers and spread the associated costs over a longer period of time. The Commission finds that a 6-month effective date is adequate for manufacturers to comply with the bedside sleeper standard because the changes necessary to comply with the standard are not substantial given that most bedside sleepers are also multi-mode products.

I. Environmental Considerations

The Commission's regulations address whether we are required to prepare an environmental assessment or an environmental impact statement. These regulations provide a categorical exclusion for certain CPSC actions that normally have ''little or no potential for affecting the human environment.'' Among those actions are rules or safety standards for consumer products. 16 CFR 1021.5(c)(1). The rule falls within the categorical exclusion.

J. Paperwork Reduction Act

This rule contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The preamble to the proposed rule (77 FR at 73352 through 73353) discussed the information collection burden of the proposed rule and specifically requested comments on the accuracy of our estimates. Sections 7 and 8 of ASTM F2906–13 contain requirements for marking, labeling, and instructional literature. These requirements fall within the definition of ''collection of information,'' as defined in 44 U.S.C. 3502(3).

OMB has assigned control number 3041–0160 to this information collection. The Commission did not receive any comments regarding the information collection burden of this proposal. Accordingly, we estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

16 CFR section	Number of respondents	Frequency of responses	Total annual responses	Hours per response	Total burden hours
1222	5	2	10	1	10

K. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA refers to the rules to be issued under that section as ''consumer product safety rules,'' thus, implying that the preemptive effect of section 26(a) of the CPSA would apply. Therefore, a rule issued under section 104 of the CPSIA will invoke the preemptive effect of section 26(a) of the CPSA when it becomes effective.

L. Certification and Notice of Requirements (NOR)

Section 14(a) of the CPSA imposes the requirement that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard or regulation under any other act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). Section 14(a)(2) of the CPSA requires that certification of children's products subject to a children's product safety rule be based on testing conducted by a CPSC-accepted third party conformity assessment body. Section 14(a)(3) of the CPSA requires the Commission to publish a notice of requirements (NOR) for the accreditation of third party conformity assessment bodies (or laboratories) to assess conformity with a children's product safety rule to which a children's product is subject. The ''Safety Standard for Bedside Sleepers,'' to be codified at 16 CFR part 1222, is a children's product safety rule that requires the issuance of an NOR.

The Commission published a final rule, *Requirements Pertaining to Third Party Conformity Assessment Bodies,* 78 FR 15836 (March 12, 2013), which is codified at 16 CFR Part 1112 (referred to here as part 1112). This rule became effective on June 10, 2013. Part 1112 establishes requirements for accreditation of third party conformity assessment bodies (or laboratories) to test for conformance with a children's product safety rule in accordance with Section 14(a)(2) of the CPSA. Part 1112 also codifies a list of all of the NORs that the CPSC had published at the time part 1112 was issued. All NORs issued after the Commission published part 1112, such as the bedside sleeper standard, require the Commission to amend part 1112. Accordingly, this rule amends part 1112 to include the bedside sleeper standard in the list with the other children's product safety rules for which the CPSC has issued NORs.

Laboratories applying for acceptance as a CPSC-accepted third party conformity assessment body to test to the new standard for bedside sleepers would be required to meet the third party conformity assessment body accreditation requirements in 16 CFR Part 1112, *Requirements Pertaining to Third Party Conformity Assessment Bodies.* When a laboratory meets the requirements as a CPSC-accepted third party conformity assessment body, the laboratory can apply to the CPSC to have 16 CFR Part 1222, Safety Standard for Bedside Sleepers, included in its scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC Web site at: *www.cpsc.gov/labsearch.*

CPSC staff conducted an analysis of the potential impacts on small entities of the proposed rule establishing accreditation requirements, as required by the Regulatory Flexibility Act, and the agency prepared an Initial

Regulatory Flexibility Analysis (IRFA). *Requirements Pertaining to Third Party Conformity Assessment Bodies.* 77 FR 31086, 31123–26. Specifically, the NOR for the bedside sleeper standard would not have a significant adverse impact on small laboratories. Based upon the number of laboratories in the United States that have applied for CPSC acceptance of the accreditation to test for conformance to other juvenile product standards, we expect that only a few laboratories will seek CPSC acceptance of their accreditation to test for conformance with the bedside sleeper standard. Most of these laboratories already will have been accredited to test for conformance to other juvenile product standards, and the only cost to them would be the cost of adding the bedside sleeper standard to their scope of accreditation. As a consequence, the Commission certifies that the NOR for the bedside sleeper standard will not have a significant impact on a substantial number of small entities.

List of Subjects

16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Reporting and recordkeeping requirements, Third party conformity assessment body.

16 CFR Part 1222

Consumer protection, Imports, Incorporation by reference, Infants and Children, Labeling, Law Enforcement, and Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

■ 1. The authority citation for part 1112 continues to read as follows:

Authority: 15 U.S.C. 2063; Pub. L. 110–314, section 3, 122 Stat. 3016, 3017 (2008).

■ 2. Amend § 1112.15 by adding paragraph (b)(35) to read as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule or test method?

* * * * *

(b) * * *

(35) 16 CFR Part 1222, Safety Standard for Bedside Sleepers.

* * * * *

■ 3. Add part 1222 to read as follows:

PART 1222–SAFETY STANDARD FOR BEDSIDE SLEEPERS

Sec.
1222.1 Scope.
1222.2 Requirements for bedside sleepers.

Authority: The Consumer Product Safety Improvement Act of 2008, Pub. L. 110–314, § 104, 122 Stat. 3016 (August 14, 2008); Pub. L. 112–28, 125 Stat. 273 (August 12, 2011).

§ 1222.1 Scope.

This part establishes a consumer product safety standard for bedside sleepers.

§ 1222.2 Requirements for bedside sleepers.

(a) Except as provided in paragraph (b) of this section, each bedside sleeper must comply with all applicable provisions of ASTM F2906–13, Standard Consumer Safety Specification for Bedside Sleepers, approved on July 1, 2013. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; *http://www.astm.org/cpsc.htm.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) Comply with ASTM F2906–13 with the following changes:

(1) Instead of complying with section 5.1 of ASTM F2906–13, comply with the following:

(i) Prior to or immediately after testing to this consumer safety specification, the bedside sleeper must be tested to 16 CFR Part 1218. Multimode products must also be tested to each applicable standard. When testing to 16 CFR Part 1218 the unit shall be freestanding, and not be secured to the test platform as dictated elsewhere in this standard.

(ii) 5.1.1 The bassinet minimum side height shall be as required in 16 CFR Part 1218, with the exception of a lowered side rail as permitted in 5.4.

(2) Instead of complying with section 7.1 of ASTM F2906–13, comply with the following:

(i) All bedside sleeper products shall comply with the marking and labeling requirements of 16 CFR Part 1218.

(ii) [Reserved]

(3) Instead of complying with section 8.1 of ASTM F2906–13, comply with the following:

(i) All bedside sleeper products shall comply with the instructional literature requirements of 16 CFR Part 1218.

(ii) [Reserved]

Dated: January 10, 2014.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2014–00597 Filed 1–14–14; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9653]

RIN 1545–BL28

Bond Premium Carryforward

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide guidance on the tax treatment of a debt instrument with a bond premium carryforward in the holder's final accrual period. The regulations in this document provide guidance to holders of Treasury securities and other debt instruments acquired at a premium.

DATES: *Effective Date:* These regulations are effective on January 15, 2014.

Applicability Date: For the date of applicability, see § 1.171–2(a)(4)(i)(C)(*2*).

FOR FURTHER INFORMATION CONTACT: William E. Blanchard, (202) 317–3900 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2013, the IRS and the Treasury Department published temporary regulations (TD 9609) in the **Federal Register** (78 FR 666) relating to the federal income tax treatment of a debt instrument with a bond premium carryforward in the holder's final accrual period, including a Treasury bill acquired at a premium. *See* § 1.171–2T. On the same day, the IRS and the Treasury Department published a notice of proposed rulemaking (REG–140437–12) cross-referencing the temporary regulations in the **Federal Register** (78 FR 687). No comments were received on the notice of proposed rulemaking. No public hearing was requested or held.

The proposed regulations are adopted without substantive change by this

Treasury decision, and the corresponding temporary regulations are removed.

Explanation of Provisions

Prior to the issuance of the temporary regulations, the IRS and the Treasury Department had received questions about an electing holder's treatment of a taxable zero coupon debt instrument, including a Treasury bill, acquired at a premium and with a negative yield. In this situation, as explained in more detail below, under the bond premium regulations in effect prior to the issuance of the temporary regulations (the prior regulations), a holder that had elected to amortize bond premium under section 171 generally would have had a capital loss upon the sale, retirement, or other disposition of the debt instrument rather than an ordinary deduction under section 171(a)(1) for all or a portion of the bond premium. The acquisition of a zero coupon debt instrument at a premium and with a negative yield was not contemplated when the prior regulations were revised in 1997 (TD 8746).

Under section 171(c) and § 1.171–4, a holder can elect to amortize bond premium on taxable debt instruments. A holder acquires a debt instrument at a premium if the holder's basis in the debt instrument immediately after its acquisition by the holder exceeds the sum of all amounts payable on the debt instrument after the acquisition date other than payments of qualified stated interest (as defined in § 1.1273–1(c)). The general effect of an election to amortize bond premium on a debt instrument that is a capital asset is to treat the bond premium as an offset to ordinary income rather than as a capital loss.

Under section 171(e) and § 1.171–2, an electing holder amortizes bond premium by offsetting the qualified stated interest allocable to an accrual period with the bond premium allocable to the period. As a result, the holder only includes the net amount of interest in income for the period. If the bond premium allocable to an accrual period exceeds the qualified stated interest allocable to the accrual period, the holder treats the excess as a bond premium deduction under section 171(a)(1) for the accrual period. However, the amount treated as a bond premium deduction is limited to the amount by which the holder's total interest inclusions on the debt instrument in prior accrual periods exceed the total amount treated by the holder as a bond premium deduction on the debt instrument in prior accrual periods. If the bond premium allocable to an accrual period exceeds the sum of the qualified stated interest allocable to the accrual period and the amount treated as a deduction under section 171(a)(1), the excess is carried forward to the next accrual period and is treated as bond premium allocable to that period. *See* § 1.171–2(a)(4). Under § 1.1016–5(b), a holder's basis in a taxable debt instrument is reduced by the amount of bond premium used to offset qualified stated interest on the debt instrument and the amount of bond premium allowed as a deduction under section 171(a)(1).

There is no stated interest payable, and therefore no qualified stated interest, on a zero coupon debt instrument, including a Treasury bill. As a result, under § 1.171–2, if a zero coupon debt instrument is acquired at a premium (that is, acquired for an amount greater than its stated principal amount), the bond premium allocable to an accrual period is carried forward to the next accrual period and to each succeeding accrual period. As a result, upon the sale, retirement, or other disposition of the debt instrument, there generally will be a bond premium carryforward in the holder's final accrual period. In this situation, because there is no qualified stated interest to offset the bond premium carryforward and the holder's basis in the debt instrument has not been reduced, under the prior regulations the holder would have had a capital loss in an amount at least equal to the bond premium carryforward.

To address the treatment of a bond premium carryforward in the situation described in the prior paragraph, the temporary regulations added a specific rule for the treatment of a bond premium carryforward determined as of the end of the holder's final accrual period for any taxable debt instrument for which the holder had elected to amortize bond premium. These final regulations adopt the rule in the temporary and proposed regulations. Thus, in the situation described in the prior paragraph, under these final regulations an electing holder deducts all or a portion of the bond premium under section 171(a)(1) when the instrument is sold, retired, or otherwise disposed of rather than recognizing a capital loss.

As noted above, no comments were received on the temporary regulations. The final regulations in this document are substantively the same as the temporary regulations.

Applicability Date

Section 1.171–2(a)(4)(i)(C)(*1*) applies to a debt instrument (bond) acquired on or after January 4, 2013 (the effective/applicability date of the temporary regulations). A taxpayer, however, may rely on this section for a debt instrument (bond) acquired before that date.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business. No comments were received.

Drafting Information

The principal author of these regulations is William E. Blanchard, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for '1.171–2T to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.171–2 is amended by adding new paragraph (a)(4)(i)(C) to read as follows:

§ 1.171–2 Amortization of bond premium.

(a) * * *

(4) * * *

(i) * * *

(C) *Carryforward in holder's final accrual period*—(*1*) *Bond premium deduction.* If there is a bond premium carryforward determined under paragraph (a)(4)(i)(B) of this section as

of the end of the holder's accrual period in which the bond is sold, retired, or otherwise disposed of, the holder treats the amount of the carryforward as a bond premium deduction under section 171(a)(1) for the holder's taxable year in which the sale, retirement, or other disposition occurs. For purposes of § 1.1016–5(b), the holder's basis in the bond is reduced by the amount of bond premium allowed as a deduction under this paragraph (a)(4)(i)(C)(*1*).

(*2*) *Effective/applicability date.* Notwithstanding § 1.171–5(a)(1), paragraph (a)(4)(i)(C)(*1*) of this section applies to a bond acquired on or after January 4, 2013. A taxpayer, however, may rely on paragraph (a)(4)(i)(C)(*1*) of this section for a bond acquired before that date.

* * * * *

§ 1.171–2T [Removed]

■ **Par. 3.** Section 1.171–2T is removed.

■ **Par. 4.** Section 1.171–3 is amended by revising the fifth sentence in paragraph (b) to read as follows:

§ 1.171–3 Special rules for certain bonds.

* * * * *

(b) * * * However, the rules in § 1.171–2(a)(4)(i)(C) apply to any remaining deflation adjustment attributable to bond premium as of the end of the holder's accrual period in which the bond is sold, retired, or otherwise disposed of. * * *

* * * * *

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: January 7, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–00613 Filed 1–14–14; 8:45 am]

BILLING CODE 4830–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in February 2014. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective February 1, 2014.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion (*Klion.Catherine@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

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

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

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for February 2014.[1]

The February 2014 interest assumptions under the benefit payments regulation will be 1.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for January 2014, these interest assumptions are unchanged.

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

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during February 2014, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

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

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

List of Subjects in 29 CFR Part 4022

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

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE–EMPLOYER PLANS

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

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

■ 2. In appendix B to part 4022, Rate Set 244, as set forth below, is added to the table.

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

* * * * *

[1] Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR Part 4044) prescribes interest assumptions for valuing benefits under terminating covered single-employer plans for purposes of allocation of assets under ERISA section 4044. Those assumptions are updated quarterly.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
244	2–1–14	3–1–14	1.75	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 244, as set forth below, is added to the table.

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
244	2–1–14	3–1–14	1.75	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 9th day of January 2014.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2014–00621 Filed 1–14–14; 8:45 am]

BILLING CODE 7709–02–P

Proposed Rules

Federal Register
Vol. 79, No. 10
Wednesday, January 15, 2014

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0018; Directorate Identifier 2013–CE–049–AD]

RIN 2120–AA64

Airworthiness Directives; CENTRAIR Gliders

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for CENTRAIR Models 101, 101A, 101AP, and 101P gliders. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as structural damage to the fuselage. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by March 3, 2014.

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 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Société Nouvelle CENTRAIR, Aerodrome B.P. 44, F–36300 LeBlanc, France; telephone: +33(0)254370796, fax: +33(0)254374864, email: *contact@sncentrair.com;* Internet: none. You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0018; 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 (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

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–2014–0018; Directorate Identifier 2013–CE–049–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://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 AD No.: 2013–0258, dated October 25, 2013 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Occurrences of structural damage were reported on several Centrair 101 sailplane fuselage. The results of the subsequent investigations identified that these findings were accidental damage related and not identified in time during routine maintenance, due to inadequate maintenance instructions.
>
> This condition, if not detected and corrected, could reduce the structural integrity of the sailplane.
>
> To address this potential unsafe condition, Société Nouvelle (SN) Centrair issued Service Bulletin (SB) 101–06 to provide instructions for structural inspections and Direction Générale de l'Aviation Civile (DGAC) of France issued AD 85–21–(A) to mandate the fuselage inspections described in that SB.
>
> Since that AD was issued, SN Centrair issued SB 101–06 at revision (rev.) 1 to provide improved instructions to identify accidental structural damages.
>
> For the reasons described above, this AD retains the requirements of DGAC France AD 85–21–(A), which is superseded, but requires accomplishment of those fuselage structural inspections in accordance with improved instructions.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0018.

Relevant Service Information

Société Nouvelle Centrair has issued Société Nouvelle Centrair Mandatory Service Bulletin No. 101–06, Revision 1, dated August 5, 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 the 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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe

condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 43 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $10,965, or $255 per product.

Since there are currently no repair instructions available if discrepancies are found during the required proposed inspections, we have no way of determining the number of products that may need follow-on actions or what the cost per product would be.

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 AD:

CENTRAIR: Docket No. FAA–2014–0018; Directorate Identifier 2013–CE–049–AD.

(a) Comments Due Date

We must receive comments by March 3, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to CENTRAIR Models 101, 101A, 101P, and 101AP gliders, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 53: Fuselage.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as structural damage to the fuselage. We are issuing this proposed AD to detect and correct structural damage not identified during routine maintenance inspections, which could lead to reduced structural integrity of the glider.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) through (f)(3) of this AD:

(1) Within 25 days after the effective date of this AD and repetitively thereafter at intervals not to exceed every 12 months, inspect all fuselage frames and ribs following the instructions in Société Nouvelle CENTRAIR Mandatory Service Bulletin 101–06, Revision 1, dated August 5, 2013.

(2) If structural damage is detected during any inspection required by paragraph (f)(1) of this AD, before further flight, contact Société Nouvelle CENTRAIR at the address specified in paragraph (h) of this AD to obtain FAA-approved repair instructions approved specifically for this AD, and before further flight, repair the glider using these repair instructions.

(3) Accomplishment of a repair, as required by paragraph (f)(2) of this AD, does not constitute terminating action for the inspection required by paragraph (f)(1) of this AD.

Note 1 to paragraph (f) of this AD: We recommend that you inspect the fuselage frames and ribs after the occurrence of any of the following events following the instructions in Société Nouvelle CENTRAIR Mandatory Service Bulletin 101–06, Revision 1, dated August 5, 2013: Landing with retracted gear, landing gear retraction during landing run, ground looping during take-off or landing, hard landing, or damage of internal structure of the fuselage. If structural damage is detected during any of these inspections, we recommend you contact Société Nouvelle CENTRAIR at the address specified in paragraph (h) of this AD for approved repair instructions.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should

be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0258, dated October 25, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0018. For service information related to this AD, contact Société Nouvelle CENTRAIR, Aerodrome B.P. 44, F–36300 LeBlanc, France; telephone: +33(0)254370796, fax: +33(0)254374864, email: *contact@sncentrair.com;* Internet: none. You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on January 8, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–00627 Filed 1–14–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0019; Directorate Identifier 2013–CE–045–AD]

RIN 2120–AA64

Airworthiness Directives; Alexander Schleicher, Segelflugzeugbau Gliders

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Alexander Schleicher, Segelflugzeugbau Model ASK 21 gliders. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as inadequate guidance for spin training operations. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by March 3, 2014.

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 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Alexander Schleicher GmbH & Co. Segelflugzeugbau, Alexander-Schleicher-Str. 1, D–36163 Poppenhausen, Germany; phone: +49 (0) 06658 89–0; fax: +49 (0) 06658 89–40; Internet: *http://www.alexander-schleicher.de/*; email: *info@alexander-schleicher.de.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0019; 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 (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

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–2014–0019; Directorate Identifier 2013–CE–045–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://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

European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2013–0123, dated June 5, 2013 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

ASK 21 sailplane spin characteristics can be controlled using tail ballast weights, ensuring that pilots of all weights can achieve the same spin results. Although the tail ballast weights were designed to control the centre of gravity of the sailplane, these weights significantly affect the inertia terms that govern the sailplane response to spin manoeuvres. Schleicher issued a Technical Note (TN) Nr. 4 in 1980 (mainly used in Switzerland) to provide instructions for the Aircraft Flight Manual (AFM) for spin training. These instructions did not provide proper protection against accomplishment of single seated flight with forgotten spin ballast installed.

Schleicher issued a TN Nr. 4a in 2004 to provide instructions to the Aircraft Flight Manual (AFM) amendments to address spin ballast installation and facilitate two seated spin training. However, these instructions did not provide proper guidance for the spin entry techniques. The safety margin in respect to inertia limits was marginal for pilot weights less than 70 kg on the front seat.

Furthermore, in one case, it was observed that a control surface gap was not sealed in accordance with design data approved for that aircraft.

Single seated flight with forgotten spin ballast installed, if not corrected, could lead to sailplane operation beyond its centre of gravity limits. Flights with low inertia momentum around Y axis (as a result of the low weight crew) could result in reduced safety margin in respect to inertia limits.

Improperly sealed control surface gap during spin recovery could lead to significant delay of recovery and reduced control of the sailplane.

To address these potential unsafe conditions, Schleicher issued TN Nr. 4b for ASK 21 model sailplanes and TN Nr. 7 for ASK 21 Mi model sailplanes to amend the associated AFM and Aircraft Maintenance Manual (AMM) procedures and installation of a cockpit placard, as applicable to sailplane model.

For the reasons described above, this AD requires amendment of the AFM, AMM and installation of a cockpit placard.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0019.

Relevant Service Information

Alexander Schleicher GmbH & Co. Segelflugzeugbau issued ASK 21 Technical Note Nr 4b, Issue for US registered gliders, dated October 31, 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 the 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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 59 products of U.S. registry. We also estimate that it would take about 2.5 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 $250 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $27,287.50, or $462.50 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Alexander Schleicher, Segelflugzeugbau: Docket No. FAA–2014–0019; Directorate Identifier 2013–CE–045–AD.

(a) Comments Due Date

We must receive comments by March 3, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Alexander Schleicher, Segelflugzeugbau Model ASK 21 gliders, all serial numbers, certificated in any category, that have incorporated:

(1) Alexander Schleicher Segelflugzeugbau ASK 21 Technical Note No. 4, dated November 14, 1980; or

(2) Alexander Schleicher GmbH & Co. Segelflugzeugbau ASK 21 Technical Note 4a, dated November 25, 2004.

(d) Subject

Air Transport Association of America (ATA) Code 11: Placards and Markings.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as inadequate guidance for spin training operations. We are issuing this proposed AD to ensure the placard installed in the aircraft cockpit, the aircraft flight manual (AFM), and the instructions for continued airworthiness (ICA) all have adequate guidance for spin training operations.

(f) Actions and Compliance

Unless already done, do the following actions as specified in paragraphs (f)(1) through (f)(3) of this AD:

(1) *For gliders modified following Alexander Schleicher Segelflugzeugbau ASK 21 Technical Note No. 4, dated November 14, 1980:* Within 30 days after the effective date of this AD, insert the amended pages into the glider's AFM and the ICA and install a cockpit placard following paragraph B) of the Action section in Alexander Schleicher GmbH & Co. Segelflugzeugbau ASK 21 Technical Note Nr. 4b, Issue for US registered gliders, dated October 31, 2013.

(2) *For gliders modified following Alexander Schleicher GmbH & Co. Segelflugzeugbau ASK 21 Technical Note 4a, dated November 25, 2004:* Within 30 days after the effective date of this AD, insert the amended pages into the glider's AFM and the ICA following paragraph C) of the Action section in Alexander Schleicher GmbH & Co. Segelflugzeugbau ASK 21 Technical Note Nr. 4b, Issue for US registered gliders, dated October 31, 2013.

(3) An owner/operator (pilot) holding at least a private pilot certificate may insert the amended pages into the AFM and ICA of the glider required by paragraphs (f)(1) and (f)(2) of this AD and must enter the action into the aircraft records showing compliance with this AD following 14 CFR § 43.9 (a)(1)–(4) and 14 CFR § 91.417(a)(2)(v). The record must be maintained as required by 14 CFR § 91.417, 121.380, or 135.439.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any aircraft to

which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0123, dated June 5, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0019. You may also refer to Alexander Schleicher Segelflugzeugbau ASK 21 Technical Note No. 4, dated November 14, 1980; and Alexander Schleicher GmbH & Co. Segelflugzeugbau ASK 21 Technical Note 4a, dated November 25, 2004, for related information. For service information related to this AD, contact Alexander Schleicher GmbH & Co. Segelflugzeugbau, Alexander-Schleicher-Str. 1, D–36163 Poppenhausen, Germany; phone: +49 (0) 06658 89–0; fax: +49 (0) 06658 89–40; Internet: *http://www.alexander-schleicher.de/;* email: *info@alexander-schleicher.de.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on January 8, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–00641 Filed 1–14–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–1033]

RIN 1625–AA00

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its safety zones regulations for annual events in the Captain of the Port Lake Michigan zone. This proposed rule would update the locations and/or enforcement times for 23 permanent safety zones, add 10 new permanent safety zones, and allow enforcement times to be subject to change with notice. We believe these changes are necessary to protect spectators, participants, and vessels from the hazards associated with annual maritime events, including fireworks displays, boat races, and air shows.

DATES: Comments and related material must be received by the Coast Guard on or before February 14, 2014.

ADDRESSES: You may submit comments identified by docket number USCG–2013–1033 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail:* 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.

(4) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Petty Officer Joseph McCollum, U.S. Coast Guard Sector Lake Michigan; telephone 414–747–7148, email *Joseph.P.McCollum@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, 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

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 (USCG–2013–1033), 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 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–2013–1033 in the ''SEARCH'' box and click ''SEARCH.'' Click on the comment box in the row listing this NPRM.

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–2013–1033 in the ''SEARCH'' box and click ''Search.'' Click on Open Docket Folder on the line associated with this rulemaking. The following link will take you directly to that view: *http://www.regulations.gov/#!docketDetail;D=USCG–2013–1033.* 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 four 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. Regulatory History and Information

On April 5, 2013, the Coast Guard published a final rule entitled Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone in the **Federal Register** (78 FR 20454). That final rule published after the Coast Guard considered public comments in response to a preceding NPRM in the **Federal Register** (78 FR 9640, February 11, 2013). No public meeting was requested, and none was held.

C. Basis and Purpose

The legal basis for this proposed rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

This proposed rule updates 23 permanent safety zones in 33 CFR 165.929. These 23 amendments involve updating the location, size, and/or enforcement times for 21 fireworks displays in various locations, 1 regatta in Spring Lake, Michigan, and 1 Air and Water Show in Gary, Indiana. The Coast Guard proposes to update the safety zones in § 165.929 to ensure that vessels and persons are protected from the specific hazards of the differing events, including firework displays, boat races, and air shows. These specific hazards include: Obstructions to the waterway that may cause marine casualties; the explosive danger of fireworks; and flaming debris falling into the water that may cause death or serious bodily harm.

Additionally, this proposed rule adds 10 new safety zones to § 165.929 for annually-reoccurring events in the Lake Michigan COTP Zone. These 10 zones were added in order to protect the public from the safety hazards previously described. The 10 additions include 9 safety zones for fireworks displays, and 1 safety zone for the launch of vessels on the Menominee River by Marinette Marine Corporation in Marinette, Wisconsin.

In this proposed rule, the Coast Guard also reorganized the safety zones in § 165.929 into a compressed chart which is sorted by month. This change of format was made in an effort to improve clarity and readability.

This proposed rule would also permit the enforcement dates and times for each of the safety zones listed in Table 165.929 to be subject to change, but the duration of enforcement would remain the same or nearly the same total number of hours as stated in the table. The Coast Guard would issue a Notice of Enforcement for safety zones in § 165.929 reflecting any changes to enforcement dates or times. This would facilitate minor changes in the date and time of an event by publishing a Notice of Enforcement in the **Federal Register**, along with issuing a Broadcast Notice to Mariners, the Coast Guard can quickly inform the public of any changes to the enforcement dates or time for any of the zones listed within this proposed rule.

D. Discussion of Proposed Rule

The safety zones in this proposed rule are necessary to ensure the safety of vessels and people during annual marine or triggering events in the Captain of the Port Lake Michigan area of responsibility. Although this proposed rule will be effective year-round, the safety zones in this proposed rule will be enforced only immediately before, during, and after events that pose a hazard to the public, and only upon notice by the Captain of the Port Lake Michigan.

The Captain of the Port Lake Michigan will notify the public that the zones in this proposal are or will be enforced 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.

Entry into, transiting, or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port, or his or her designated representative. The Captain of the Port or his or her designated representative may be contacted via VHF Channel 16. All persons and vessels granted permission to enter must comply with the instructions of the Coast Guard Captain of the Port Lake Michigan or his or her designated representative.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and 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 that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this proposed 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 zones established by this proposed rule would be relatively small. Also, the safety zones are designed to minimize impact on navigable waters. Furthermore, the safety zones have been designed to allow vessels to transit unrestricted portions of the waterways not affected by the safety zones. Thus, restrictions on vessel movements within the affected areas are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zones when permitted by the Captain of the Port. On the whole, the Coast Guard expects insignificant adverse impact to mariners from the enforcement of these safety zones.

2. Impact on Small Entities

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

This proposed rule will affect the following entities, some of which might be small entities: The owners and operators of vessels intending to transit or anchor in the areas designated as safety zones during the dates and times the safety zones are being enforced.

These safety zones will not have a significant economic impact on a substantial number of small entities for the reasons cited in the *Regulatory Planning and Review* section. Additionally, before the enforcement of these zones, we would issue a local Broadcast Notice to Mariners so vessel owners and operators can plan accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 so that they can better evaluate its effects on them and participate in the rulemaking. 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 Petty Officer Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148. 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 would call 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 the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that this proposed 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 expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

8. Taking of Private Property

This proposed 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 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 proposed 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 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. An environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves the establishment of safety zones and is therefore categorically excluded under figure 2–1, paragraph 34(g) of the Instruction. 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 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 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 § 165.929 to read as follows:

§ 165.929 Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone.

(a) *Regulations.* The following regulations apply to the safety zones listed in Table 165.929 of this section.

(1) The general regulations in 33 CFR 165.23.

(2) All vessels must obtain permission from the Captain of the Port Lake Michigan or his or her designated representative to enter, move within or exit a safety zone established in this section when the safety zone is enforced. Vessels and persons granted permission to enter one of the safety zones listed in this section must obey all lawful orders or directions of the Captain of the Port Lake Michigan or his or her designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel must proceed as directed.

(3) The enforcement dates and times for each of the safety zones listed in Table 165.929 in this section are subject to change, but the duration of enforcement would remain the same or nearly the same total number of hours as stated in the table. In the event of a change, the Captain of the Port Lake Michigan will provide notice to the public by publishing a Notice of Enforcement in the **Federal Register**, as well as, issuing a Broadcast Notice to Mariners.

(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 a zone, give legally enforceable orders to persons or vessels within a safety zone, and take other actions authorized by the Captain of the Port Lake Michigan.

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

(3) *Rain date* refers to an alternate date and/or time in which the safety zone would be enforced in the event of inclement weather.

(c) *Suspension of enforcement.* The Captain of the Port Lake Michigan may suspend enforcement of any of these zones earlier than listed in this section. Should the Captain of the Port suspend any of these zones earlier than the listed duration in this section, he or she may make the public aware of this suspension by Broadcast Notice to Mariners and/or on-scene notice by his or her designated representative.

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

(e) *Waiver.* For any vessel, the Captain of the Port Lake Michigan or his or her 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 safety or security.

TABLE 165.929

[All coordinates listed in the Table 165.929 reference Datum NAD 1983.]

Event	Location	Enforcement date and time [1]
(a) March Safety Zones		
(1) St. Patrick's Day Fireworks.	Manitowoc, WI All waters of the Manitowoc River in Manitowoc, WI within the arc of a circle with a 200-foot radius from the fireworks launch site located in position 44°5′29.6″ N, 087°39′23.0″ W.	The third Saturday of March; 5:30 p.m. to 7 p.m.
(b) April Safety Zones		
(1) Michigan Aerospace Challenge Sport Rocket Launch.	Muskegon, MI All waters of Muskegon Lake, near the West Michigan Dock and Market Corp facility, within the arc of a circle with a 1500-yard radius from the rocket launch site located in position 43°14′21″ N, 086°15′35″ W.	The last Saturday of April; 8 a.m. to 4 p.m.
(2) Lubbers Cup Regatta.	Spring Lake, MI All waters of Spring Lake in Spring Lake, Michigan in the vicinity of Keenan Marina within a rectangle that is approximately 6,300 by 300 feet. The rectangle will be bounded by points beginning at 43°04′55″ N, 086°12′32″ W; then east to 43°04′57″ N, 086°11′6″ W; then south to 43°04′55″ N, 086°11′5″ W; then west to 43°04′52″ N, 086°12′32″ W; then north back to the point of origin.	April 12; 8 a.m. to 6 p.m., and April 13; 8:40 a.m. to 12:30 p.m.
(c) May Safety Zones		
(1) Tulip Time Festival Fireworks.	Holland, MI All waters of Lake Macatawa, near Kollen Park, within the arc of a circle with a 1000-foot radius from the fireworks launch site in position 42°47′23″ N, 086°07′22″ W.	The first Saturday of May; 9:30 p.m. to 11:30 p.m. Rain date: The first Friday of May; 9:30 p.m. to 11:30 p.m.
(2) Cochrane Cup	Blue Island, IL All waters of the Calumet Saganashkee Channel from the South Halstead Street Bridge at 41°39′27″ N, 087°38′29″ W; to the Crawford Avenue Bridge at 41°39′05″ N, 087°43′08″ W; and the Little Calumet River from the Ashland Avenue Bridge at 41°39′7″ N, 087°39′38″ W; to the junction of the Calumet Saganashkee Channel at 41°39′23″ N, 087°39′00″ W.	The first Saturday of May; 6:30 a.m. to 5 p.m.
(3) Rockets for Schools Rocket Launch.	Sheboygan, WI	The first Saturday of May; 8 a.m. to 5 p.m.

TABLE 165.929—Continued

[All coordinates listed in the Table 165.929 reference Datum NAD 1983.]

Event	Location	Enforcement date and time [1]
	All waters of Lake Michigan and Sheboygan Harbor, near the Sheboygan South Pier, within the arc of a circle with a 1500-yard radius from the rocket launch site located with its center in position 43°44′55″ N, 087°41′52″ W.	
(4) Celebrate De Pere ...	De Pere, WI	The Sunday before Memorial Day; 8:30 p.m. to 10 p.m.
	All waters of the Fox River, near Voyageur Park, within the arc of a circle with a 500 foot radius from the fireworks launch site located in position 44°27′10″ N, 088°03′50″ W.	
(d) June Safety Zones		
(1) International Bayfest	Green Bay, WI.	The second Friday of June; 9 p.m. to 11 p.m.
	All waters of the Fox River, near the Western Lime Company 1.13 miles above the head of the Fox River, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°31′24″ N, 088°00′42″ W.	
(2) Harborfest Music and Family Festival.	Racine, WI	Friday and Saturday of the third complete weekend of June; 9 p.m. to 11 p.m. each day.
	All waters of Lake Michigan and Racine Harbor, near the Racine Launch Basin Entrance Light, within the arc of a circle with a 200-foot radius from the fireworks launch site located in position 42°43′43″ N, 087°46′40″ W.	
(3) Spring Lake Heritage Festival Fireworks.	Spring Lake, MI	The third Saturday of June; 9 p.m. to 11 p.m.
	All waters of the Grand River within the arc of a circle with a 700-foot radius from a barge in position 43°04′22.5″ N, 086°12′24.07″ W.	
(4) Elberta Solstice Festival.	Elberta, MI	The last Saturday of June; 9 p.m. to 11 p.m.
	All waters of Betsie Lake within the arc of a circle with a 500-foot radius from the fireworks launch site located in approximate position 44°37′36.5″ N, 086°13′59.6″ W.	
(5) World War II Beach Invasion Re-enactment.	St. Joseph, MI	The last Saturday of June; 8 a.m. to 2 p.m.
	All waters of Lake Michigan in the vicinity of Tiscornia Park in St. Joseph, MI beginning at 42°06′55″ N, 086°29′23″ W; then west/northwest along the north breakwater to 42°06′59″ N, 086°29′41″ W; the northwest 100 yards to 42°07′01″ N, 086°29′44″ W; then northeast 2,243 yards to 42°07′50″ N, 086°28′43″ W; the southeast to the shoreline at 42°07′39″ N, 086°28′27″ W; then southwest along the shoreline to the point of origin.	
(6) Ephraim Fireworks ...	Ephraim, WI	The third Saturday of June; 9 p.m. to 11 p.m.
	All waters of Eagle Harbor and Lake Michigan within the arc of a circle with a 750-foot radius from the fireworks launch site located on a barge in position 45°09′18″ N, 087°10′51″ W.	
(7) Thunder on the Fox	Elgin, IL	Friday, Saturday, and Sunday of the third weekend in June; 10 a.m. to 7 p.m. each day.
	All waters of the Fox River, near Elgin, Illinois, between Owasco Avenue, located at approximate position 42°03′06″ N, 088°17′28″ W and the Kimball Street bridge, located at approximate position 42°02′31″ N, 088°17′22″ W.	
(8) Olde Ellison Bay Days Fireworks.	Ellison Bay, WI	The fourth Saturday of June; 9 p.m. to 10 p.m.
	All waters of Lake Michigan, in the vicinity of Ellison Bay Wisconsin, within a 400-foot radius from the fireworks launch site located on a barge in position 45°15′36″ N, 087°05′03″ W.	
(9) Sheboygan Harborfest Fireworks.	Sheboygan, WI	June 15; 8:45 p.m. to 10:45 p.m.
	All waters of Lake Michigan and Sheboygan Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°44′55″ N, 087°41′54.8″ W.	
(e) July Safety Zones		
(1) Town of Porter Fireworks Display.	Porter IN	The first Saturday of July; 8:45 p.m. to 9:30 p.m.

TABLE 165.929—Continued

[All coordinates listed in the Table 165.929 reference Datum NAD 1983.]

Event	Location	Enforcement date and time [1]
	All waters of Lake Michigan within the arc of a circle with a 1000 foot radius from the fireworks launch site located in position 41°39′56″ N, 087°03′57″ W.	
(2) City of Menasha 4th of July Fireworks.	Menasha, WI	July 4; 9 p.m. to 10:30 p.m.
	All waters of Lake Winnebago and the Fox River within an 800-foot radius from the fireworks launch site located in position 44°12′14″ N, 088°25′31.4″ W.	
(3) Pentwater July Third Fireworks.	Pentwater, MI	July 3; 9 p.m. to 11 p.m.
	All waters of Lake Michigan and the Pentwater Channel within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°46′57″ N, 086°26′38″ W.	Rain date: July 4; 9 p.m. to 11 p.m.
(4) Taste of Chicago Fireworks.	Chicago, IL	July 3; 9 p.m. to 11 p.m.
	All waters of Monroe Harbor and Lake Michigan bounded by a line drawn from 41°53′24″ N, 087°35′59″ W; then east to 41°53′15″ N, 087°35′26″ W; then south to 41°52′49″ N, 087°35′26″ W; then southwest to 41°52′27″ N, 087°36′37″ W; then north to 41°53′15″ N, 087°36′33″ W; then east returning to the point of origin.	Rain date: July 4; 9 p.m. to 11 p.m.
(5) St. Joseph Fourth of July Fireworks.	St. Joseph, MI	July 4; 9 p.m. to 11 p.m.
	All waters of Lake Michigan and the St. Joseph River within the arc of a circle with a 1000-foot radius from the fireworks launch site in position 42°06′52″ N, 086°29′28.2″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(6) US Bank Fireworks ..	Milwaukee, WI	July 3; 9 p.m. to 11 p.m.
	All waters and adjacent shoreline of Milwaukee Harbor, in the vicinity of Veteran's park, within the arc of a circle with a 1,200-foot radius from the center of the fireworks launch site which is located on a barge in approximate position 43°02′22″ N, 087°53′29″ W.	Rain date: July 4; 9 p.m. to 11 p.m.
(7) Manistee Independence Day Fireworks.	Manistee, MI	July 3; 9 p.m. to 11 p.m.
	All waters of Lake Michigan, in the vicinity of the First Street Beach, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°14′51″ N, 086°20′46″ W.	Rain date: July 4; 9 p.m. to 11 p.m.
(8) Frankfort Independence Day Fireworks.	Frankfort, MI	July 4; 9 p.m. to 11 p.m.
	All waters of Lake Michigan and Frankfort Harbor, bounded by a line drawn from 44°38′06″ N, 086°14′50″ W; then south to 44°37′37″ N, 086°14′48″ W; then west to 44°37′37″ N, 086°15′16″ W; then north to 44°38′06″ N, 086°15′16″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(9) Freedom Festival Fireworks.	Ludington, MI	July 4; 9 p.m. to 11 p.m.
	All waters of Lake Michigan and Ludington Harbor within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 43°57′10.3″ N, 086°27′43.0″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(10) White Lake Independence Day Fireworks.	Montague, MI	July 4; 9 p.m. to 11 p.m.
	All waters of White Lake, in the vicinity of the Montague boat launch, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°24′33″ N, 086°21′28″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(11) Muskegon Summer Celebration July Fourth Fireworks.	Muskegon, MI	July 4; 9 p.m. to 11 p.m.
	All waters of Muskegon Lake, in the vicinity of Heritage Landing, within the arc of a circle with a 1000-foot radius from a fireworks launch site located on a barge in position 43°14′00″ N, 086°15′50″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(12) Grand Haven Jaycees Annual Fourth of July Fireworks.	Grand Haven, MI	July 4; 9 p.m. to 11:30 p.m.
	All waters of the Grand River within the arc of a circle with a 800-foot radius from the fireworks launch site located on the west bank of the Grand River in position 43°3′54.4″ N, 086°14′14.8″ W.	Rain date: July 5; 9 p.m. to 11:30 p.m.
(13) Celebration Freedom Fireworks.	Holland, MI	The Saturday prior to July 4; 9 p.m. to 11 p.m.
	All waters of Lake Macatawa in the vicinity of Kollen Park within a 2000-foot radius of an approximate launch position at 42°47′27.5″ N, 086°7′37.1″ W.	Rain date: July 4; 9 p.m. to 11 p.m.

TABLE 165.929—Continued

[All coordinates listed in the Table 165.929 reference Datum NAD 1983.]

Event	Location	Enforcement date and time [1]
(14) Van Andel Fireworks Show.	Holland, MI	July 4; 9 p.m. to 11 p.m.
	All waters of Lake Michigan and the Holland Channel within the arc of a circle with a 1000-foot radius from the fireworks launch site located in approximate position 42°46′21″ N, 086°12′43.5″ W.	Rain date: July 3; 9 p.m. to 11 p.m.
(15) Saugatuck Independence Day Fireworks.	Saugatuck, MI	July 4; 8 p.m. to 10 p.m.
	All waters of Kalamazoo Lake within the arc of a circle with a 500-foot radius from the fireworks launch site in position 42°39′4.4″ N, 086°12′17.1″ W.	Rain date: July 5; 8 p.m. to 10 p.m.
(16) South Haven Fourth of July Fireworks.	South Haven, MI	July 3; 9:30 p.m. to 11:30 p.m.
	All waters of Lake Michigan and the Black River within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°24′7.5″ N, 086°17′11.8″ W.	
(17) Town of Dune Acres Independence Day Fireworks.	Dune Acres, IN	The first Saturday of July; 8:45 p.m. to 10:30 p.m.
	All Waters of Lake Michigan within the arc of a circle with a 700-foot radius from the fireworks launch site located in position 41°39′18.1″ N, 087°5′14.3″ W.	
(18) Gary Fourth of July Fireworks.	Gary, IN	July 4; 9 p.m. to 11 p.m.
	All waters of Lake Michigan, approximately 2.5 miles east of Gary Harbor, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 41°37′19″ N, 087°14′31″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(19) Joliet Independence Day Celebration Fireworks.	Joliet, IL	July 3; 9 p.m. to 11 p.m.
	All waters of the Des Plains River, at mile 288, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 41°31′31″ N, 088°05′15″ W.	Rain date: July 4; 9 p.m. to 11 p.m.
(20) Glencoe Fourth of July Celebration Fireworks.	Glencoe, IL	July 4; 9 p.m. to 11 p.m.
	All waters of Lake Michigan in the vicinity of Lake Front Park, within the arc of a circle with a 500-foot radius from a barge in position 42°08′24.22″ N, 087°44′55.80″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(21) Lakeshore Country Club Independence Day Fireworks.	Glencoe, IL	July 4; 9 p.m. to 11 p.m.
	All waters of Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°08′27″ N, 087°44′57″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(22) Shore Acres Country Club Independence Day Fireworks.	Lake Bluff, IL	July 4; 9 p.m. to 11 p.m.
	All waters of Lake Michigan within the arc of a circle with a 600-foot radius from approximate position 42°17′50.8″ N, 087°49′50.2″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(23) Kenosha Independence Day Fireworks.	Kenosha, WI	July 4; 9 p.m. to 11 p.m.
	All waters of Lake Michigan and Kenosha Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°35′17″ N, 087°48′27″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(24) Fourthfest of Greater Racine Fireworks.	Racine, WI	July 4; 9 p.m. to 11 p.m.
	All waters of Lake Michigan and Racine Harbor in the vicinity of North Beach within a 320-foot radius of a launch position at 42°44′14.1″ N, 087°46′33.7″ W. All waters of Lake Michigan and Racine Harbor in the vicinity of North Beach within a 420-foot radius of a launch position at 42°44′17″ N, 087°46′42″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(25) Sheboygan Fourth of July Celebration Fireworks.	Sheboygan, WI	July 4; 9 p.m. to 11 p.m.

TABLE 165.929—Continued

[All coordinates listed in the Table 165.929 reference Datum NAD 1983.]

Event	Location	Enforcement date and time [1]
	All waters of Lake Michigan and Sheboygan Harbor, in the vicinity of the south pier, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°44′55″ N, 087°41′51″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(26) Manitowoc Independence Day Fireworks.	Manitowoc, WI	July 4; 9 p.m. to 11 p.m.
	All waters of Lake Michigan and Manitowoc Harbor, in the vicinity of south breakwater, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 44°05′24″ N, 087°38′45″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(27) Sturgeon Bay Independence Day Fireworks.	Sturgeon Bay, WI	July 4; 9 p.m. to 11 p.m.
	All waters of Sturgeon Bay, in the vicinity of Sunset Park, within the arc of a circle with a 1000-foot radius from the fireworks launch site located on a barge in position 44°50′37″ N, 087°23′18″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(28) Fish Creek Independence.	Fish Creek, WI	The first Saturday after July 4; 9 p.m. to 11 p.m.
	All waters of Green Bay, in the vicinity of Fish Creek Harbor, within the arc of a circle with a 1000-foot radius from the fireworks launch site located on a barge in position 45°07′52″ N, 087°14′37″ W.	
(29) Fire over the Fox Fireworks.	Green Bay, WI	July 4; 9:45 p.m. to 11 p.m.
	All waters of the Fox River including the mouth of the East River from the railroad bridge in approximate position 44°31′28″ N, 088°0′38″ W then southwest to the US 141 bridge in approximate position 44°31′6.1″ N, 088°0′57.8″ W.	Rain date: July 5; 9:45 p.m. to 11 p.m.
(30) Celebrate Americafest Ski Show.	Green Bay, WI	July 4 from 2:30 p.m. to 4:30 p.m.
	All waters of the Fox River including the mouth of the East River from the West Walnut Street Bridge in approximate position 44°30′54.7″ N, 088°01′06″ W, then northeast to an imaginary line across the river bisecting 44°31′20.2″ N, 088°0′38.4″ W.	Rain date: July 5; 2:30 p.m. to 4:30 p.m.
(31) Marinette Fourth of July Celebration Fireworks.	Marinette, WI	July 4; 9 p.m. to 11 p.m.
	All waters of the Menominee River, in the vicinity of Stephenson Island, within the arc of a circle with a 900 foot radius from the fireworks launch site in position 45°6′13.9″ N, 087°37′45.4″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(32) Evanston Fourth of July Fireworks.	Evanston, IL	July 4; 9 p.m. to 11 p.m.
	All waters of Lake Michigan, in the vicinity of Centennial Park Beach, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 42°02′56″ N, 087°40′21″ W.	Rain date: July 5; 9 p.m. to 11 p.m.
(33) Gary Air and Water Show.	Gary, IN	July 10 thru 14; 8:30 a.m. to 5 p.m.
	All waters of Lake Michigan bounded by a line drawn from 41°37′ 15″ N, 087°16′ 45.8″ W; then east to 41°37′ 26.4″ N, 087°13′49.3″ W; then north to 41°38′ 1.0″ N, 087°13′ 52.6″ W; then southwest to 41°37′48.3″ N, 087°16′ 46.0″ W; then south returning to the point of origin.	
(34) Annual Trout Festival Fireworks.	Kewaunee, WI	Friday of the second complete weekend of July; 9 p.m. to 11 p.m.
	All waters of Kewaunee Harbor and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 44°27′29″ N, 087°29′45″ W.	
(35) Michigan City Summerfest Fireworks.	Michigan City, IN	Sunday of the second complete weekend of July; 8:30 p.m. to 10:30 p.m.
	All waters of Michigan City Harbor and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 41°43′42″ N, 086°54′37″ W.	
(36) Port Washington Fish Day Fireworks.	Port Washington, WI	The third Saturday of July; 9 p.m. to 11 p.m.
	All waters of Port Washington Harbor and Lake Michigan, in the vicinity of the WE Energies coal dock, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°23′07″ N, 087°51′54″ W.	

TABLE 165.929—Continued

[All coordinates listed in the Table 165.929 reference Datum NAD 1983.]

Event	Location	Enforcement date and time [1]
(37) Bay View Lions Club South Shore Frolics Fireworks.	Milwaukee, WI All waters of Lake Michigan and Milwaukee Harbor, in the vicinity of South Shore Yacht Club, within the arc of a circle with a 900-foot radius from the fireworks launch site in position 42°59′39.5″ N, 087°52′48.5″ W.	Friday, Saturday, and Sunday of the second or third weekend of July; 9 p.m. to 11 p.m. each day.
(38) Venetian Festival Fireworks.	St. Joseph, MI All waters of Lake Michigan and the St. Joseph River, near the east end of the south pier, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°06′48″ N, 086°29′15″ W.	Saturday of the third complete weekend of July; 9 p.m. to 11 p.m.
(39) Joliet Waterway Daze Fireworks.	Joliet, IL All waters of the Des Plaines River, at mile 287.5, within the arc of a circle with a 300-foot radius from the fireworks launch site located in position 41°31′15″ N, 088°05′17″ W.	Friday and Saturday of the third complete weekend of July; 9 p.m. to 11 p.m. each day.
(40) EAA Airventure	Oshkosh, WI All waters of Lake Winnebago bounded by a line drawn from 43°57′30″ N, 088°30′00″ W; then south to 43°56′56″ N, 088°29′53″ W, then east to 43°56′40″ N, 088°28′40″ W; then north to 43°57′30″ N, 088°28′40″ W; then west returning to the point of origin.	The last complete week of July, beginning Monday and ending Sunday; 8 a.m. to 8 p.m. each day.
(41) Saugatuck Venetian Night Fireworks.	Saugatuck, MI All waters of Kalamazoo Lake within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in position 42°39′4.4″ N, 086°12′17.1″ W.	The last Saturday of July; 9 p.m. to 11 p.m.
(42) Roma Lodge Italian Festival Fireworks.	Racine, WI All waters of Lake Michigan and Racine Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°44′04″ N, 087°46′20″ W.	Friday and Saturday of the last complete weekend of July; 9 p.m. to 11 p.m.
(43) Chicago Venetian Night Fireworks.	Chicago, IL All waters of Monroe Harbor and all waters of Lake Michigan bounded by a line drawn from 41°53′03″ N, 087°36′36″ W; then east to 41°53′03″ N, 087°36′21″ W; then south to 41°52′27″ N, 087°36′21″ W; then west to 41°52′27″ N, 087°36′37″ W; then north returning to the point of origin.	Saturday of the last weekend of July; 9 p.m. to 11 p.m.
(44) New Buffalo Business Association Fireworks.	New Buffalo, MI All waters of Lake Michigan and New Buffalo Harbor within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 41°48′09″ N, 086°44′49″ W.	July 3rd or July 5th; 9:30 p.m. to 11:15 p.m.
(45) Start of the Chicago to Mackinac Race.	Chicago, IL All waters of Lake Michigan in the vicinity of the Navy Pier at Chicago IL, within a rectangle that is approximately 1500 by 900 yards. The rectangle is bounded by the coordinates beginning at 41°53′15.1″ N, 087°35′25.8″ W; then south to 41°52′48.7″ N, 087°35′25.8″ W; then east to 41°52′49.0″ N, 087°34′26.0″ W; then north to 41°53′15″ N, 087°34′26″ W; then west, back to point of origin.	July 12; 2 p.m. to 4:30 p.m. and July 13; 9 a.m. to 3 p.m.
(46) Fireworks at Pier Wisconsin.	Milwaukee, WI All waters of Milwaukee Harbor, including Lakeshore Inlet and the marina at Pier Wisconsin, within the arc of a circle with a 300-foot radius from the fireworks launch site on Pier Wisconsin located in approximate position 43°02′10.7″ N, 087°53′37.5″ W.	Dates and times will be issued by Notice of Enforcement and Broadcast Notice to Mariners.
(47) Gills Rock Fireworks.	Gills Rock, WI	July 4; 8:30 p.m. to 10:30 p.m.

TABLE 165.929—Continued

[All coordinates listed in the Table 165.929 reference Datum NAD 1983.]

Event	Location	Enforcement date and time [1]
	All waters of Green Bay near Gills Rock WI within a 1000-foot radius of the launch vessel in approximate position at 45°17′28.2″ N, 087°1′43.7″ W.	
(48) City of Menominee 4th of July Celebration Fireworks.	Menominee, MI	July 4; 9 p.m. to 11 p.m.
	All Waters of Green Bay, in the vicinity of Menominee Marina, within the arc of a circle with a 1000-foot radius from position 45°06′18.4″ N, 087°35′55.8″ W.	
(49) Miesfeld's Lakeshore Weekend Fireworks.	Sheboygan, WI	July 26; 9 p.m. to 10 p.m.
	All waters of Lake Michigan and Sheboygan Harbor within an 800-foot radius from the fireworks launch site located at the south pier in approximate position 43°44′55″ N, 087°41′58″ W.	
(50) Marinette Logging and Heritage Festival Fireworks.	Marinette, WI	July 13; 9 p.m. to 11 p.m.
	All waters of the Menominee River, in the vicinity of Stephenson Island, within the arc of a circle with a 900-foot radius from the fireworks launch site in position 45°6′13.9″ N, 087°37′45.4″ W.	
(f) August Safety Zones		
(1) Michigan Super Boat Grand Prix.	Michigan City, IN	The first Sunday of August; 9 a.m. to 4 p.m.
	All waters of Lake Michigan bounded by a rectangle drawn from 41°43′39.3″ N, 086°54′33.0″ W; then northeast to 41°44′48.5″ N, 086°51′17.6″ W, then northwest to 41°45′11.7″ N, 086°51′45.4″ W; then southwest to 41°44′3.8″ N, 086°54′52.4″ W; then southeast returning to the point of origin.	Rain date: The first Saturday of August; 9 a.m. to 4 p.m.
(2) Milwaukee Air and Water Show.	Milwaukee, WI	July 31 thru August 4; 8:30 a.m. to 5 p.m.
	All waters and adjacent shoreline of Lake Michigan and Bradford Beach located within an area that is approximately 4600 by 1550 yards. The area will be bounded by the points beginning at 43°02′57″ N, 087°52′50″ W; then south along the Milwaukee Harbor break wall to 43°02′41″ N, 087°52′49″ W; then southeast to 43°02′26″ N, 087°52′01″ W; then northeast to 43°04′27″ N, 087°50′30″ W; then northwest to 43°04′41″ N, 087°51′29″ W; then southwest returning to the point of origin.	
(3) Port Washington Maritime Heritage Festival Fireworks.	Port Washington, WI	Saturday of the last complete weekend of July or the second weekend of August; 9 p.m. to 11 p.m.
	All waters of Port Washington Harbor and Lake Michigan, in the vicinity of the WE Energies coal dock, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°23′07″ N, 087°51′54″ W.	
(4) Grand Haven Coast Guard Festival Fireworks.	Grand Haven, MI	First weekend of August; 9 p.m. to 11 p.m.
	All waters of the Grand River within the arc of a circle with a 600-foot radius from the fireworks launch site located on the west bank of the Grand River in position 43°3′54.4″ N, 086°14′14.8″ W.	
(5) Sturgeon Bay Yacht Club Evening on the Bay Fireworks.	Sturgeon Bay, WI	The first Saturday of August; 8 p.m. to 10 p.m.
	All waters of Sturgeon Bay within the arc of a circle with a 280-foot radius from the fireworks launch site located on a barge in approximate position 44°49′18.57″ N, 087°21′22.19″ W.	
(6) Hammond Marina Venetian Night Fireworks.	Hammond, IN	The first Saturday of August; 9 p.m. to 11 p.m.
	All waters of Hammond Marina and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 41°41′53″ N, 087°30′43″ W.	
(7) North Point Marina Venetian Festival Fireworks.	Winthrop Harbor, IL	The second Saturday of August; 9 p.m. to 11 p.m.

TABLE 165.929—Continued

[All coordinates listed in the Table 165.929 reference Datum NAD 1983.]

Event	Location	Enforcement date and time [1]
	All waters of Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 42°28′55″ N, 087°47′56″ W.	
(8) Waterfront Festival Fireworks.	Menominee, MI	August 3; 9 p.m. to 11 p.m.
	All Waters of Green Bay, in the vicinity of Menominee Marina, within the arc of a circle with a 1000-foot radius from position 45°06′18.4″ N, 087°35′55.8″ W.	
(9) Ottawa Riverfest Fireworks.	Ottawa, IL	The first Sunday of August; 9 p.m. to 11 p.m.
	All waters of the Illinois River, at mile 239.7, within the arc of a circle with a 300-foot radius from the fireworks launch site located in position 41°20′29″ N, 088°51′20″ W.	
(10) Chicago Air and Water Show.	Chicago, IL	August 14 thru 18; 8:30 a.m. to 5 p.m.
	All waters and adjacent shoreline of Lake Michigan and Chicago Harbor bounded by a line drawn from 41°55′54″ N at the shoreline, then east to 41°55′54″ N, 087°37′12″ W, then southeast to 41°54′00″ N, 087°36′00″ W, then southwestward to the northeast corner of the Jardine Water Filtration Plant, then due west to the shore.	
(11) Pentwater Homecoming Fireworks.	Pentwater, MI	Saturday following the second Thursday of August; 9 p.m. to 11 p.m.
	All waters of Lake Michigan and the Pentwater Channel within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°46′56.5″ N, 086°26′38″ W.	
(12) Chicago Match Cup Race.	Chicago, IL	August 6 thru 11; 8 a.m. to 8 p.m.
	All waters of Chicago Harbor in the vicinity of Navy Pier and the Chicago Harbor break wall bounded by coordinates beginning at 41°53′37″ N, 087°35′26″ W; then south to 41°53′24″ N, 087°35′26″ W; then west to 41°53′24″ N, 087°35′55″ W; then north to 41°53′37″ N, 087°35′55″ W; then back to point of origin.	
(13) New Buffalo Ship and Shore Fireworks.	New Buffalo, MI	August 10; 9:30 p.m. to 11:15 p.m.
	All waters of Lake Michigan and New Buffalo Harbor within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 41°48′09″ N, 086°44′49″ W.	
(14) Sister Bay Marinafest Ski Show.	Sister Bay, WI	August 31; 1 p.m. to 3:15 p.m.
	All waters of Sister Bay within an 800-foot radius of position 45°11′35.1″ N, 087°7′23.5″ W.	
(15) Sister Bay Marinafest Fireworks.	Sister Bay, WI	August 31; 8:15 p.m. to 10 p.m.
	All waters of Sister Bay within an 800-foot radius of the launch vessel in approximate position 45°11′35.1″ N, 087°7′23.5″ W.	
(16) Vessel Launch at Marinette Marine.	Marinette, WI	This zone will be enforced when a vessel is launched by issue of Notice of Enforcement and Marine Broadcast.
	All waters of the Menominee River in the vicinity of Marinette Marine Corporation, between the Bridge Street Bridge located in position 45°06′12″ N, 087°37′34″ W and a line crossing the river perpendicularly passing through position 45°05′57″ N, 087°36′43″ W, in the vicinity of the Ansul Company.	
(17) Algoma Shanty Days Fireworks.	Algoma, WI	Sunday of the second complete weekend of August; 9 p.m. to 11 p.m.
	All waters of Lake Michigan and Algoma Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 44°36′24″ N, 087°25′54″ W.	
(g) September Safety Zones		
(1) ISAF Nations Cup Grand Final Fireworks Display.	Sheboygan, WI	September 13; 7:45 p.m. to 8:45 p.m.
	All waters of Lake Michigan and Sheboygan Harbor, in the vicinity of the south pier in Sheboygan Wisconsin, within a 500 foot radius from the fireworks launch site located on land in position 43°44′55″ N, 087°41′51″ W.	

TABLE 165.929—Continued

[All coordinates listed in the Table 165.929 reference Datum NAD 1983.]

Event	Location	Enforcement date and time [1]
(h) November Safety Zones		
(1) Downtown Milwaukee Fireworks.	Milwaukee, WI All waters of the Milwaukee River between the Kilbourn Avenue Bridge at 1.7 miles above the Milwaukee Pierhead Light to the State Street Bridge at 1.79 miles above the Milwaukee Pierhead Light.	The third Thursday of November; 6 p.m. to 8 p.m.
(2) Magnificent Mile Fireworks Display.	Chicago, IL All waters and adjacent shoreline of the Chicago River bounded by the arc of the circle with a 210-foot radius from the fireworks launch site with its center in approximate position of 41°53′21″ N, 087°37′24″ W.	The third weekend in November; sunset to termination of display.
(i) December Safety Zones		
(1) New Years Eve Fireworks.	Chicago, IL All waters of Monroe Harbor and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located on a barge in approximate position 41°52′41″ N, 087°36′37″ W.	December 31; 11 p.m. to January 1 at 1 a.m.

[1] As noted in paragraph (a)(3) of this section, the enforcement dates and times for each of the listed safety zones are subject to change.

Dated: December 20, 2013.

M.W. Sibley,

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

[FR Doc. 2014–00282 Filed 1–14–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

[NPS–WRST–13811; PPAKWRSTPO, PPMPSAS1Z.YP0000]

RIN 1024–AE14

Special Regulations, Areas of the National Park System, Wrangell-St. Elias National Park and Preserve; Off-Road Vehicles

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to amend its special regulations for Wrangell-St. Elias National Park and Preserve to designate trails in the portion of the Nabesna District located within the National Preserve where motor vehicles may be used off park roads for recreational purposes. The proposed rule would also prohibit the use of certain types of vehicles based upon size and weight, and close certain areas in designated wilderness within the Nabesna District that are located outside of established trails and trail corridors to the use of motor vehicles for subsistence.

DATES: Comments must be received by March 17, 2014.

ADDRESSES: You may submit comments, identified by the Regulation Identifier Number (RIN) 1024–AE14, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail or hand deliver to:* National Park Service, Regional Director, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to www.regulations.gov, including any personal information provided. For additional information see Public Participation under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Rick Obernesser, Superintendent, Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, Alaska 99573. Phone (907)–822–7202. Email: *AKR_Regulations@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

The approximately 13.2-million-acre Wrangell-St. Elias National Park and Preserve (Wrangell-St. Elias) was established in 1980 by the Alaska National Interest Lands Conservation Act (ANILCA) (Pub. L. 96–487, Dec. 2 1980). Wrangell-St. Elias consists of approximately 8.3 million acres of land designated as a National Park and approximately 4.8 million acres of land designated as a National Preserve. Section 201(9) of ANILCA directed that Wrangell-St. Elias be managed for the following purposes:

- To maintain unimpaired the scenic beauty and quality of high mountain peaks, foothills, glacial systems, lakes and streams, valleys, and coastal landscapes in their natural state.
- To protect habitat for, and populations of, fish and wildlife including but not limited to caribou, brown/grizzly bears, Dall's sheep, moose, wolves, trumpeter swans and other waterfowl, and marine mammals.
- To provide continued opportunities, including reasonable access for mountain climbing, mountaineering, and other wilderness recreational activities.
- Subsistence uses by local residents shall be permitted in the park, where such uses are traditional in accordance with the provisions of Title VIII.

Section 203 of ANILCA directed the Secretary of the Interior, acting through the National Park Service (NPS), to administer Wrangell-St. Elias as a new area of the National Park System, pursuant to the provisions of the National Park Service Organic Act of 1916 (Organic Act) (16 U.S.C. 1 *et seq.*). In the Organic Act, Congress granted the NPS broad authority to regulate the use of areas under its jurisdiction provided that the associated impacts will leave the ''scenery and the natural and

historic objects and the wild life [in these areas] unimpaired for the enjoyment of future generations.'' Section 3 of the Organic Act authorizes the Secretary of the Interior, acting through NPS, to ''make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks.''

Wilderness

Section 701 of ANILCA designated approximately 9.6 million acres within Wrangell-St. Elias as wilderness, a portion of which is located within the Nabesna District. Section 707 of ANILCA provides that, ''[e]xcept as otherwise expressly provided for in this Act . . .,'' wilderness designated by ANILCA shall be administered in accordance with the Wilderness Act. According to the Wilderness Act (16 U.S.C. 1131–1136), these lands are to be ''administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, [and] the preservation of their wilderness character. . . .''

Access for Subsistence Uses

ANILCA authorizes certain methods of access for subsistence purposes that would otherwise be prohibited under Federal law or general NPS regulations. Section 811(a) of ANILCA provides that ''rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands.'' Section 811(b) of ANILCA provides that ''[n]otwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purpose by local residents, subject to reasonable regulation.''

NPS implemented Section 811 of ANILCA in 36 CFR 13.460(a), which states that ''[n]otwithstanding any other provision of this chapter, the use of . . . other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within park areas except at those times and in those areas restricted or closed by the Superintendent.'' The 1986 General Management Plan for Wrangell-St. Elias acknowledged that off-road vehicles (ORVs) were a means of surface transportation traditionally employed by local rural residents for subsistence purposes. Title 36, Code of Federal Regulations, section 13.460(b)–(c) authorizes the Superintendent to close areas after notice and a public hearing ''if the Superintendent determines that such use is causing or is likely to cause an adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or the purposes for which the park was established.''

Off-Road Vehicles

The subsistence use of motor vehicles off park roads in Wrangell-St. Elias is governed by Section 811(b) of ANILCA and 36 CFR 13.460. Separate legal authorities govern other uses of motor vehicles off park roads in Wrangell-St. Elias. Under 43 CFR 36.11(g)(1), non-subsistence use of off-road vehicles is generally prohibited, except on routes designated by NPS in accordance with Executive Order 11644, or pursuant to a valid permit issued under 43 CFR 36.11(g)(2), 43 CFR 36.10, or 43 CFR 36.12.

Executive Order 11644, ''Use of Off-Road Vehicles on the Public Lands,'' issued in 1972 and amended in 1977 by Executive Order 11989, required federal agencies to issue regulations designating specific areas and routes on public lands where the use of off-road vehicles (ORVs) may be permitted. NPS implemented these Executive Orders in 36 CFR 4.10 which prohibits the use of motor vehicles off established roads unless routes and areas are designated for off-road motor vehicle use by special regulation. Under 36 CFR 4.10(b), such routes and areas ''may be designated only in national recreation areas, national seashores, national lakeshores and national preserves.'' The designation of ORV routes must comply with Executive Order 11644, as amended, which requires that they be located:

- To minimize damage to soil, watershed, vegetation, or other resources of the public lands.
- To minimize harassment of wildlife or significant disruption of wildlife habitat.
- To minimize conflicts between ORV use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.
- In areas of the National Park System only if the respective agency head determines that ORV use in such locations will not adversely affect their natural, aesthetic, or scenic values.

Executive Order 11644 also requires that NPS ensure adequate opportunity for public participation when designating areas and trails for ORV use.

History of ORV Use in the Nabesna District of Wrangell-St. Elias

ORV use in the Nabesna District commenced after World War II when surplus military vehicles were used by hunters, miners, and others for personal use and access to remote areas. In the late 1970s, the all-terrain vehicle (typically three- or four-wheelers) emerged as a new and more affordable mode of cross-country travel in rural Alaska. When Wrangell-St. Elias was created in 1980, there was an established trail network in the Nabesna District. These trails were used by recreational and subsistence users, as well as a means to access private inholdings. The 1986 General Management Plan for Wrangell-St. Elias acknowledged that ORVs are a traditional means of accessing subsistence resources by local residents.

In 1983, Wrangell-St. Elias began issuing permits for recreational ORV use on nine established trails under 43 CFR 36.11(g)(2), which provides superintendents the authority to issue permits allowing ORV use on existing trails in areas that are not designated wilderness upon a finding that the ORV use ''would be compatible with the purposes and values for which the area was established.'' The permits require users to stay on existing trails and adhere to certain conditions. The number of permits issued for recreational ORV use rose from 64 in 1985 to 263 in 2010.

Since 1986, Wrangell-St. Elias has conducted two major studies of ORV impacts, and a detailed survey and inventory of physical conditions along the existing trails in the Nabesna District. These studies demonstrated that ORV use over wet areas leads to trail braiding and widening. Vegetation does not recover quickly, soils erode, permafrost depth changes, and impacts to surface hydrology occur. Of the nine trails in the Nabesna District, the Tanada Lake, Copper Lake, Reeves Field, and Suslota trails have substantial sections with degraded conditions.

On June 29, 2006, the National Parks Conservation Association, Alaska Center for the Environment, and the Wilderness Society filed a lawsuit against NPS in the United States District Court for the District of Alaska. The plaintiffs challenged the method used by NPS to issue recreational ORV permits for the nine trails within the Nabesna District. They asserted that when issuing recreational ORV permits, NPS failed to make the compatibility finding required by 43 CFR 36.11(g)(2)

and failed to prepare an environmental analysis of recreational ORV use as required by the National Environmental Policy Act of 1969 (NEPA). The plaintiffs did not challenge the use of ORVs for subsistence uses.

In a settlement agreement announced on May 15, 2007, NPS agreed to suspend issuing recreational ORV permits for three specific trails unless the ground is frozen. NPS also agreed to prepare an environmental impact statement under NEPA and issue a record of decision.

Environmental Impact Statement and Selected Action

On December 21, 2007, NPS published a Notice of Intent to prepare an environmental impact statement in the **Federal Register**. The initial planning process included extensive public involvement, public meetings, agency consultation, and tribal consultation. The Nabesna Off-Road Vehicle Management Plan/Draft Environmental Impact Statement (DEIS) was released to the public on August 11, 2010. During the 90-day public comment period, which included public meetings and briefings, NPS received 153 comment letters. NPS responses to public comments were included in the Final Environmental Impact Statement Nabesna Off-Road Vehicle Management Plan (FEIS) published in August 2011. The FEIS describes major impacts to soils, wetlands, and vegetation associated with ORV use on unimproved trails. It also describes moderate to major impacts to wilderness character associated with subsistence ORV use in designated wilderness.

On December 14, 2011, the Regional Director signed a Record of Decision (ROD) which identified Alternative 6 in the FEIS as the selected action. The selected action provides continued opportunities for appropriate and reasonable access to wilderness and backcountry recreation. The selected action also accommodates subsistence use and access to inholdings, and protects scenic views, fish and wildlife habitat, and other resources and values of Wrangell-St. Elias.

Under the selected action, NPS will improve the most degraded segments of ORV trails in the Nabesna District through trail re-routing or reconstruction to a design-sustainable or maintainable condition (as those terms are defined in the FEIS). A design-sustainable or maintainable condition insures that ORV users can stay on one trail alignment and that damage to soils, watersheds, vegetation, and other resources are minimized. The FEIS estimates that for the six trails in the National Preserve, trail improvements will result in the recovery of 204.6 acres of wetland habitat and 212.7 acres of vegetation habitat. The FEIS also projects that each of the improved trails in the National Preserve will have between 50 and 180 ORV round trips per year (depending upon the trail and including both recreational and subsistence use), most of these occurring during hunting season.

The proposed rule would authorize recreational ORV use on improved or frozen trails in the portion of the Nabesna District located within the National Preserve, but not in the National Park. In the area of designated wilderness included in the FEIS (FEIS Wilderness Area), subsistence ORV users will be required to stay on designated trails and trail corridors with limited off-trail use for game retrieval (i.e. 0.5 miles on either side of the trail). The remaining portion of the FEIS Wilderness Area will be closed to subsistence ORV use. The FEIS Wilderness Area is approximately 541,000 acres of designated wilderness, bordered by Drop Creek on the west, the Nabesna Glacier on the east, and Mt. Sanford and Mt. Jarvis on the south. Trails and trail corridors in the FEIS Wilderness Area, and the boundaries of the FEIS Wilderness Area, will be identified on the Upper Copper/Jacksina Wilderness map available at the Slana Ranger Station, the Main Park Visitor Center, the Tanada and Copper Lake trailheads, and on the park's planning Web site at *http://www.nps.gov/wrst/parkmgmt/planning.htm*. In the portion of the Nabesna District located outside of the FEIS Wilderness Area, subsistence ORV use will be allowed on or off ORV trails before and after trail improvements. NPS will monitor the use and take management actions as described in the FEIS. The proposed rule would preclude the use of certain types of vehicles based upon vehicle size and weight.

The DEIS, FEIS, ROD, and other supporting documents can be found online at *http://www.parkplanning.nps.gov/wrst,* by clicking on the link entitled ''Nabesna ORV Management Plan EIS'' and then clicking on the link entitled ''Document List.''

Proposed Rule

Summary of Proposed Rule

The proposed rule would amend the special regulations for Wrangell-St. Elias at 36 CFR part 13, subpart V, to implement the selected action in the ROD. Pursuant to 36 CFR 4.10(b), the proposed rule would designate six trails in the National Preserve for recreational ORV use. Recreational ORV users would be required to obtain a permit to use the designated trails. Permits would only be issued for frozen trails or trails in a design-sustainable or maintainable condition, as determined by the Superintendent. The proposed rule would require that subsistence ORV users stay on trails or within trail corridors in the FEIS Wilderness Area. The proposed rule would also establish vehicle weight and size limits to protect park resources. Through implementation of the selected action in the ROD, Wrangell-St. Elias will continue to protect and preserve natural and cultural resources and natural processes, and provide a variety of safe visitor experiences while minimizing conflicts among users.

Recreational ORV Use

The following trails in the National Preserve would be designated for recreational ORV use: Suslota, Caribou Creek, Trail Creek, Lost Creek, Soda Lake, and Reeve Field. Recreational ORV users would be required to obtain a permit to use the designated trails. Prior to trail improvements, permits would only be issued for trails in fair or better condition (Lost Creek, Soda Lake, and Trail Creek), except that permits may be issued for any of the trails in the National Preserve when the Superintendent determines they are frozen. Frozen would be defined as frost depth of 6 inches as measured with a soil probe. NPS would announce the completion of trail improvements and when trails are frozen through a press release and notices posted at the Slana Ranger Station, the Main Park Visitor Center, and on the park's Web site at *http://www.nps.gov/wrst/planyourvisit/orv-trails.htm.* After trail improvements, permits would be issued for the additional trails in the National Preserve (Suslota, Caribou Creek, and Reeve Field) regardless of whether the trails are frozen. Recreational ORV use permits would include the following conditions to protect park resources:

- Travel is only authorized on designated trails listed on the permit.
- ORVs must stay on the designated trails.
- If hunting, gathering, or otherwise walking off the trail, park ORVs off to the side of the trail; vehicles may not be used to retrieve game off of the designated trail alignment.
- Creating new trails is prohibited.
- ORV use is prohibited in designated wilderness areas.

The proposed rule would prohibit recreational ORV use in the portion of the Nabesna District located within the

National Park. Maps of the trails designated for recreational ORV use would be available at the Slana Ranger Station and the Main Park Visitor Center, and on the park's Web site at *http://www.nps.gov/wrst/planyourvisit/orv-trails.htm.*

Subsistence ORV Use

For trails in the FEIS Wilderness Area (Black Mountain Trails and the southern portions of the Tanada Lake Trail), the proposed rule would require that subsistence ORV users stay on trails or within identified trail corridors. The trail corridors would consist of 0.5 miles on either side of the trail, and ORV use in areas outside of the established trail could be solely for purposes of game retrieval. Travel outside of these designated trail corridors in the FEIS Wilderness Area would be prohibited. Trails and trail corridors in the FEIS Wilderness Area, and the boundaries of the FEIS Wilderness Area, would be identified on the Upper Copper/Jacksina Wilderness map available at the Slana Ranger Station and the Main Park Visitor Center, and on the park's planning Web site at *http://www.nps.gov/wrst/parkmgmt/planning.htm.* They will also be identified at the Tanada and Copper Lake trailheads.

Authorized Off-Road Vehicles

The proposed rule would establish the types of ORVs that may be operated on designated trails or areas. The following types of vehicles, because of their size, width, weight, or high surface pressure (measured, for example, in pounds per square inch) would be prohibited for recreational or subsistence uses:

- Nodwells or other tracked rigs greater than 5.5 feet in width or 4,000 pounds curb weight.
- Street legal highway vehicles.
- Custom 4×4 jeeps, SUVs, or trucks designed for off-road use.
- Original or modified ''deuce and a half'' cargo trucks.
- Dozers, skid-steer loaders, excavators, or other construction equipment.
- Motorcycles or dirt bikes.
- Log skidders.

The proposed rule would require that all wheeled vehicles (including all-terrain vehicles, utility vehicles, and Argos) be less than 1,500 pounds curb weight, not including trailers. Nothing in this proposed rule would supersede the applicable provisions of 36 CFR part 4 and 36 CFR 13.460(d), which require that ORVs be operated in compliance with applicable state and federal laws, and prohibit damaging park resources or harassing wildlife.

Frequently Asked Questions

This section explains some of the principal elements of the proposed rule in a question and answer format.

What is an ''Off-Road Vehicle'' (ORV)?

Any motor vehicle, including all-terrain vehicles, designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland, or other natural terrain, except snowmachines or snowmobiles. This definition does not include snowmachines and the proposed rule does not affect the use of snowmachines in Wrangell-St. Elias.

What is recreational ORV use?

Any ORV use by individuals not engaged in subsistence uses as defined in 36 CFR 13.420 or accessing an inholding. Recreational ORV use in the portion of the Nabesna District located within the National Preserve includes, but is not limited to, access for sport hunting, sport fishing, and dispersed camping.

Do I need a permit to operate an ORV for recreational purposes?

Yes, if you are using the ORV for recreational use as defined above. Permits for recreational ORV use may be obtained at the Main Park Visitor Center in Copper Center or the Slana Ranger Station in Slana.

Does this proposed rule require me to obtain a permit to operate an ORV for subsistence purposes?

No, not if you are a Federally qualified local rural resident actively engaged in subsistence uses.

Is there a limit to the number of ORV permits available?

No, there would be no limit to the number of permits that the Superintendent may issue for recreational ORV use.

Several of my family members have ORVs that we would like to use for recreational purposes on trails in the National Preserve. Do we need a permit for each vehicle?

Yes, you would need to obtain a permit for each vehicle that you want to use for recreational purposes on designated ORV trails. The operator of the ORV must have the permit in his or her possession when the ORV is in use.

How long will permits be valid for ORV use?

When you apply for a permit, you would indicate how long you intend to operate an ORV for recreational use. The NPS will determine the duration of the permit based upon the requested time period and other factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, or other management considerations necessary to ensure that ORV use is being managed in a manner compatible with the purposes for which the park was established. The duration of each permit would be stated in the terms and conditions of the permit.

Where can I operate my ORV?

For recreational ORV users, designated trails will be listed on the face of the permit and identified on maps available at the Slana Ranger Station and the Main Park Visitor Center, and on the park's Web site at *http://www.nps.gov/wrst/planyourvisit/orv-trails.htm.* Travel would only be permitted on the trails listed on the permit, which would include all of the trails designated for ORV use by this proposed rule that are either frozen or improved.

Will designated trails for recreational ORV users be marked on the ground?

Yes, trails designated for recreational ORV use would be shown on a map on a kiosk at the trailhead and will be marked on the ground with carsonite posts.

Can I tow a trailer with my ORV on designated trails?

Yes, NPS recommends the use of low-pressure ''balloon'' style tires on ORV trailers.

Are there any vehicle requirements for my ORV?

Yes, ORVs would be required to comply with the weight and size limits specified in the proposed rule. The proposed rule would also prohibit the use of certain types of vehicles.

I am a local rural resident engaged in subsistence uses. What effect does the proposed rule have on me?

Your ORV must comply with the weight and size limits described in the proposed rule, and certain types of vehicles listed in the rule would be prohibited. On the trails in the FEIS Wilderness Area (Black Mountain Trails and the southern portions of the Tanada Lake Trail), subsistence ORV users would be required to stay on trails or within identified trail corridors that consist of 0.5 miles on either side of the trail. The portion of these trail corridors outside of the established trails could be

used only for game retrieval. The remaining portion of the FEIS Wilderness Area would be closed to subsistence ORV use.

How will designated trails and trail corridors for subsistence ORV users in the FEIS Wilderness Area be identified?

The designated trails and trail corridors will be identified on the Upper Copper/Jacksina Wilderness map available at the Slana Ranger Station and the Main Park Visitor Center, and on the park's planning Web site at *http://www.nps.gov/wrst/parkmgmt/planning.htm.* They will also be identified at the Tanada and Copper Lake trailheads.

Compliance With Other Laws, Executive Orders, and Department Policy

Use of Off-Road Vehicles on the Public Lands (Executive Orders 11644 and 11989)

Executive Order 11644, as amended by Executive Order 11989, was adopted to address impacts on public lands from ORV use. The Executive Order applies to ORV use on federal public lands that is not authorized under a valid lease, permit, contract, or license. Section 3(a)(4) of Executive Order 11644 provides that ORV ''[a]reas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.'' Since the Executive Order clearly was not intended to prohibit all ORV use everywhere in these units, the term ''adversely affect'' does not have the same meaning as the somewhat similar terms ''adverse impact'' and ''adverse effect'' used in the National Environmental Policy Act of 1969 (NEPA). In analyses under NEPA, a procedural statute that provides for the study of environmental impacts, the term ''adverse effect'' includes minor or negligible effects.

Section 3(a)(4) of the Executive Order, by contrast, concerns substantive management decisions and must be read in the context of the authorities applicable to such decisions. Wrangell-St. Elias is an area of the National Park System. Therefore, NPS interprets the Executive Order term ''adversely affect'' consistent with its NPS Management Policies 2006. Those policies require that the NPS only allow ''appropriate use'' of parks and avoid ''unacceptable impacts.''

This rule is consistent with those requirements. It will not impede attainment of Wrangell-St. Elias's desired future conditions for natural and cultural resources as identified in the FEIS. NPS has determined that this rule will not unreasonably interfere with the atmosphere of peace and tranquility or the natural soundscape maintained in natural locations within Wrangell-St. Elias. Therefore, within the context of the resources and values of Wrangell-St. Elias, motor vehicle use on the routes and areas designated by this rule (which are also subject to resource closures and other management measures that would be implemented under the selected action in the ROD) will not cause an unacceptable impact to the natural, aesthetic, or scenic values of Wrangell-St. Elias.

Section 8(a) of the Executive Order requires agency heads to monitor the effects of ORV use on lands under their jurisdictions. On the basis of information gathered, agency heads may from time to time amend or rescind designations of areas or other actions as necessary to further the policy of the Executive Order. The selected action in the ROD includes monitoring and resource protection procedures and periodic review to provide for the ongoing evaluation of impacts of motor vehicle use on protected resources. The Superintendent has authority to take appropriate action as needed to protect park resources.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA)

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on the cost-benefit and regulatory flexibility analyses found in the report entitled ''Cost-Benefit and Regulatory Flexibility Analyses: Proposed Regulations for Management of Off Road Vehicles in The Nabesna District of Wrangell-St. Elias National Park and Preserve'' which can be viewed online at *http://parkplanning.nps.gov/wrst,* by clicking the link entitled ''Nabesna ORV Management Plan EIS'' and then clicking the link entitled ''Document List.''

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. The proposed rule is limited in effect to federal lands managed by the NPS and would not have a substantial direct effect on state and local government in Alaska. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OMB has approved the information collection requirements associated with NPS Special Park Use Permits and has assigned OMB Control Number 1024–0026 (expires 08/31/16). An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act of 1969 (NEPA)

This rule constitutes a major Federal action significantly affecting the quality of the human environment. We have prepared the FEIS under the NEPA. The FEIS is summarized above and available online at *http://www.parkplanning.nps.gov/wrst,* by clicking on the link entitled ''Nabesna ORV Management Plan EIS'' and then clicking on the link entitled ''Document List.''

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Clarity of This Rule

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

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

(c) Use common, everyday words and clear language rather than jargon;

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

(e) Use lists and tables wherever possible.

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

Drafting Information

The primary authors of this regulation are Bruce Rogers, Norah Martinez, and Peter Christian, Wrangell-St. Elias National Park and Preserve; Paul Hunter and Andee Sears, NPS Alaska Regional Office, and Jay P. Calhoun, Regulations Program Specialist, National Park Service, Regulations and Special Park Uses.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section above.

Public Availability of Comments

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.

List of Subjects in 36 CFR Part 13

Alaska, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 13 as set forth below:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

■ 1. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.;* Subpart N also issued under 16 U.S.C. 1a–2(h), 20, 1361, 1531, 3197; Pub. L. 105–277, 112 Stat. 2681–259, October 21, 1998; Pub. L. 106–31, 113 Stat. 72, May 21, 1999; Sec. 13.1204 also issued under Sec. 1035, Pub. L. 104–333, 110 Stat. 4240.

Subpart V—Special Regulations—Wrangell-St. Elias National Park and Preserve

■ 2. *Add § 13.1914 to subpart V to read as follows:*

§ 13.1914 Off-road motor vehicle use in the Nabesna District.

(a) *What is the scope of this regulation?* The regulations contained in paragraphs (b) through (e) of this section apply to the use of motor vehicles off park roads within the boundaries of the Nabesna District within Wrangell-St. Elias National Park and Preserve. This section does not affect the use of snowmobiles or snowmachines.

(b) *What terms do I need to know?* The following definitions apply only to the regulations in this section:

FEIS Wilderness Area means an area of designated wilderness identified on the Upper Copper/Jacksina Wilderness map available at the Slana Ranger Station, the Main Park Visitor Center, the Tanada and Copper Lake trailheads, and on the park's planning Web site.

Frozen means frost depth of 6 inches as measured with a soil probe and determined by the Superintendent.

Improved means a trail that is in a design-sustainable or maintainable condition as determined by the Superintendent.

Nabesna District means a designated area in the northern portion of Wrangell-St. Elias National Park and Preserve as shown on a map available at the Slana Ranger Station, the Main Park Visitor Center, and on the park Web site.

ORV means any motor vehicle, including an all-terrain vehicle, designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland,

or other natural terrain, except snowmachines or snowmobiles.

Recreational use means the use of an ORV for any purpose other than for access to inholdings or subsistence uses, which are defined in § 13.420.

Trail corridor means an area extending 0.5 miles from either side of the centerline of an existing trail.

(c) *Must I obtain a permit to operate an ORV for recreational use?* (1) You must obtain a permit before operating an ORV for recreational use. Permits may be obtained at the Slana Ranger Station in Slana or the Main Park Visitor Center in Copper Center.

(2) The Superintendent may issue permits for the recreational use of ORVs on any of the following trails in the National Preserve:

(i) Suslota Trail.

(ii) Caribou Creek Trail.

(iii) Trail Creek Trail.

(iv) Lost Creek Trail.

(v) Soda Lake Trail.

(vi) Reeve Field Trail.

(3) Permits may be issued for the recreational use of ORVs only on trails that are either frozen or improved. A map showing trails designated for recreational ORV use, and a current list of frozen and improved trails, are available at Slana Ranger Station, the Main Visitor Center, and on the park's Web site.

(4) You must obtain a permit for each ORV that you want to use for recreational purposes on designated ORV trails. The operator of the ORV must have the permit in his or her possession when the ORV is in use.

(5) Violating any term or condition of a permit is prohibited.

(6) The recreational use of ORVs without a permit is prohibited.

(d) *May I operate an ORV for subsistence uses in the FEIS Wilderness Area?* (1) In the FEIS Wilderness Area, local rural residents may operate ORVs for subsistence uses on the following trails and trail corridors:

(i) Black Mountain Trails and trail corridors.

(ii) Tanada Lake Trail and trail corridors.

(2) ORVs may be operated in the trail corridors outside of the established trails only for purposes of game retrieval.

(3) Local rural residents may not operate an ORV for subsistence uses in the FEIS Wilderness Area outside of the trails and trail corridors identified in paragraph (d)(1) of this section.

(4) Trails and trail corridors in the FEIS Wilderness Area, and the boundaries of the FEIS Wilderness Area, will be shown on the Upper Copper/Jacksina Wilderness map available at the Slana Ranger Station, the Main Park Visitor Center, the Tanada and Copper Lake trailheads, and on the park's planning Web site.

(e) *Are there limits on the types of ORVs that may be operated off-road in the Nabesna District of Wrangell-St. Elias National Park and Preserve?* The following types of vehicles may not be used off-road for recreational or subsistence uses in the Nabesna District of Wrangell-St. Elias National Park and Preserve:

(1) Nodwells or other tracked rigs greater than 5.5 feet in width or 4,000 pounds curb weight.

(2) Street legal highway vehicles.

(3) Custom 4x4 jeeps, SUVs, or trucks designed for off-road use.

(4) Original or modified ''deuce and a half'' cargo trucks.

(5) Dozers, skid-steer loaders, excavators, or other construction equipment.

(6) Motorcycles or dirt bikes.

(7) Log skidders.

(8) Wheeled vehicles (including all terrain vehicles, utility vehicles, and Argos) exceeding 1,500 pounds curb weight, not including trailers.

Dated: December 27, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–00491 Filed 1–14–14; 8:45 am]

BILLING CODE 4312–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2009–0927; FRL–9905–48–OAR]

RIN 2060–AR78

Greenhouse Gas Reporting Program: Amendments and Confidentiality Determinations for Fluorinated Gas Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule: Extension of public comment period.

SUMMARY: The EPA is announcing an extension of the public comment period for the proposed rule titled ''Greenhouse Gas Reporting Program: Amendments and Confidentiality Determinations for Fluorinated Gas Production.''

DATES: The public comment period started on November 19, 2013 (78 FR 69337). This document announces the extension of the deadline for public comment from January 21, 2014 to February 20, 2014. Comments must be received on or before February 20, 2014.

ADDRESSES: You may submit your comments, identified by Docket ID No. EPA–HQ–OAR–2009–0927 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: GHGReportingFGHG@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2009–0927 in the subject line of the message.
- *Fax:* (202) 566–9744.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 28221T, Attention Docket ID No. EPA–HQ–OAR–2009–0927, 1200 Pennsylvania Avenue NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, William Jefferson Clinton Building West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. 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–OAR–2009–0927. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute.

Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Send or deliver information identified as CBI to only the mail or hand/courier delivery address listed above, attention: Docket ID No. EPA–HQ–OAR–2009–0927. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA

cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, William Jefferson Clinton Building 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 telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGreporting@epa.gov.* For technical information, contact the Greenhouse Gas Reporting Rule Helpline at: *http://www.epa.gov/climatechange/emissions/ghgrule_contactus.htm.* Alternatively, contact Carole Cook at 202–343–9263.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the proposed rule is also be available through the WWW on the EPA's greenhouse gas reporting rule Web site at *http://www.epa.gov/climatechange/emissions/ghgrulemaking.html.*

SUPPLEMENTARY INFORMATION: *Background on Today's Action.* In this action, the EPA is providing notice that it is extending the comment period on the proposed rule titled ''Greenhouse Gas Reporting Program: Amendments and Confidentiality Determinations for Fluorinated Gas Production,'' which was published on November 19, 2013. The original deadline for submitting public comments on that rule was January 21, 2014. The EPA is extending that deadline to February 20, 2014. This extension will provide the general public additional time for public participation and comments.

List of Subjects in 40 CFR Part 98

Environmental protection, Administrative practice and procedure, Greenhouse gases, Reporting and recordkeeping requirements.

Dated: January 9, 2014.

Sarah Dunham,

Director, Office of Atmospheric Programs.

[FR Doc. 2014–00651 Filed 1–14–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 22, 24, 27, 87, and 90

[WT Docket No. 13–301; FCC 13–157]

Expanding Access to Mobile Wireless Services Onboard Aircraft

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Notice of Proposed Rulemaking (NPRM), the Commission proposes to revise outdated rules and adopt consistent new rules governing mobile communications services aboard airborne aircraft. These rule changes would give airlines, subject to applicable Federal Aviation Administration (FAA) and Department of Transportation (DoT) rules, the choice of whether to enable mobile communications services using an Airborne Access System and, if so, which specific services to enable. The proposed rules would also replace an existing patchwork of regulatory prohibitions on airborne use of mobile services in some, but not all, of the heavily used mobile wireless bands with a consistent regulatory framework that explicitly forbids airborne use of mobile services in those bands unless they are operating on an aircraft equipped with an Airborne Access System.

DATES: Submit comments on or before February 14, 2014. Submit reply comments on or before March 17, 2014. Paperwork Reduction Act (PRA) comments should be submitted March 17, 2014.

ADDRESSES: You may submit comments, identified by WT Docket No. 13–301 or FCC 13–157, by any of the following methods:

- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail:* FCC Headquarters, 445 12th St. SW., Washington, DC 20554.
- In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov.*
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Amanda Huetinck of the Mobility Division, Wireless Telecommunications Bureau, at (202) 418–7090 or *Amanda.Huetinck@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at (202) 418–2918, or via the Internet at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the

Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This *NPRM* seeks comment on a potential new or revised information collection requirement. If the Commission adopts any new or revised information collection requirement, the Commission will publish a notice in the **Federal Register** inviting the public to comment on the requirement, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Synopsis

I. Introduction and Background

1. By this *Notice of Proposed Rulemaking* (*NPRM*), we propose to revise outdated rules and adopt consistent new rules governing mobile communications services aboard airborne aircraft. These rule changes would give airlines, subject to applicable Federal Aviation Administration (FAA) and Department of Transportation (DoT) rules, the choice of whether to enable mobile communications services using an Airborne Access System and, if so, which specific services to enable. The draft rules would also replace an existing patchwork of regulatory prohibitions on airborne use of mobile services in some, but not all, of the heavily used mobile bands with a consistent regulatory framework that explicitly forbids airborne use of mobile services in those bands unless they are operating on an aircraft equipped with an Airborne Access System. If adopted, the rule changes would reduce consumer confusion, increase protection against harmful interference, improve administrative efficiency, and facilitate expanded access to broadband services in flight. Additionally, while many airlines offer in-flight Wi-Fi broadband services, the proposals in this *NPRM* would give airlines the option to allow consumers to access broadband services when airborne through their existing wireless service providers, just as they would on the ground. The *NPRM* does not propose to mandate that airlines permit any new airborne mobile services. It does, however, provide a path for interested airlines to authorize increased consumer access to airborne mobile broadband services across licensed commercial mobile spectrum bands in a safe, non-interfering manner.

2. In recent years, air carriers have been enhancing their in-flight communications service offerings to meet the increasing consumer demand for broadband connectivity on aircraft. One study predicts that the number of aircraft offering wireless connectivity will reach 4,048 by the end of 2013 (representing 21 percent of the global fleet), and will rise to 14,000 by 2022 (a 50 percent connectivity penetration in commercial aircraft). This study also projects that approximately 5,000 of these aircraft will offer both Wi-Fi and cellular options. According to one survey of adult airline passengers, 69 percent of airline passengers that brought a portable electronic device (PED)—such as a tablet or smartphone—onto an aircraft in the past 12 months reported that they used their devices during flight. The report did not distinguish between transmitting PEDs and non-transmitting PEDs. Also, notably, in October 2013, the FAA announced that, after performing recommended assessments and tests, airlines could safely expand passenger use of PEDs during all phases of flight.

3. Internationally, more than forty jurisdictions, including the European Union (EU), Asia, and Australia, have authorized the use of mobile communications services on aircraft. To the best of our knowledge, these services have successfully operated without causing harmful interference to terrestrial commercial wireless networks. (Throughout the *NPRM* we refer to networks primarily providing ground-based network services as ''terrestrial'' networks or licensees. This colloquial usage is not intended to invoke technical meanings of the term ''terrestrial'' that may be familiar in other regulatory (*e.g.,* FCC or International Telecommunication Union) contexts.) Given the rapidly expanding demand for mobile broadband services, our recent efforts to improve consumers' access to broadband services on aircraft, and the successful deployment of mobile communications services on aircraft in numerous other countries, we find that it is in the public interest to bring the benefits of mobile communications services on aircraft to domestic consumers. Specifically, we propose to:

(1) Remove existing, narrow restrictions on airborne use of mobile devices in the 800 MHz cellular and Specialized Mobile Radio (SMR) bands, replacing them with a more comprehensive framework encompassing access to mobile communications services in all mobile wireless bands;

(2) Harmonize regulations governing the operation of mobile devices on airborne aircraft across all commercial mobile spectrum bands; [1]

(3) Add the authority to provide mobile communications services on airborne aircraft across all commercial mobile spectrum bands to existing part 87 aircraft station licenses;

(4) Allow mobile communications services on airborne aircraft only if managed by an Airborne Access System certified by the FAA, which would control the emissions of onboard PEDs by requiring them to remain at or near their lowest transmitting power level;

(5) Limit authorization for mobile communications services to aircraft travelling at altitudes of more than 3,048 meters (approximately 10,000 feet) above the ground;

(6) We also seek comment on alternative authorization frameworks, the potential impact of these proposals on public safety and national security, and issues related to the use of voice services onboard aircraft.

4. Consistent with our continued efforts to increase consumer access to broadband and the FAA's recent actions, this proposal would provide airlines with the technological tools to

[1] For purposes of this *Notice,* ''commercial mobile spectrum bands'' include: (1) the 800 MHz cellular band (824–849 and 869–894 MHz); (2) SMR spectrum within the bands (806–824 and 851–869 MHz and 896–901 and 935–940 MHz); (3) the Broadband Personal Communications Service (PCS) band (1850–1915 and 1930–1995 MHz); (4) 700 MHz band (698–757 and 775–787 MHz); (5) the Advanced Wireless Services (AWS) band (1710–1755 and 2110–2155 MHz); (6) the Wireless Communications Service (WCS) band (2305–2320 and 2345–2360 MHz); and AWS–4 (2000–2020 MHz and 2180–2200 MHz). We would expect to add other spectrum bands if and when they are allocated for commercial mobile broadband use.

offer additional in-cabin communications services to their passengers at their discretion. Our proposal is focused on data services, but it is technology-neutral; we do not propose to limit the use of mobile communications services on airborne aircraft to non-voice applications. Deployment of such services, including etiquette and other rules, would be at the discretion of individual airlines, within the context of any rules or guidelines established by the FAA or DoT.

A. FCC Regulations Limiting Airborne Mobile Use

5. Commission rules governing the use of airborne mobile devices vary significantly among services. Specifically, airborne use of the 800 MHz cellular band is prohibited and airborne use of the 800 MHz SMR band is prohibited on aircraft that typically fly at altitudes over one mile. There are no such restrictions on airborne use of the AWS, PCS, WCS, 700 MHz, or AWS–4 bands. As noted above resolving these inconsistencies is one of the primary goals of this proceeding.

6. Part 22 of the Commission's rules prohibits the airborne use of 800 MHz cellular telephones, including the use of such phones on commercial and private aircraft. This prohibition was adopted in 1991 to guard against the threat of harmful interference from airborne use of cellular phones to terrestrial cellular networks. The Commission's prohibition was not to ensure interference-free operation of avionics equipment. When the prohibition was adopted, the Commission noted that a cellular telephone used onboard an airborne aircraft would have greater range than a land-based handset, and its signal would be received by multiple terrestrial cell sites in a given market, causing harmful interference. Moreover, the Commission found that because a cellular telephone can transmit on all assigned 800 MHz cellular frequencies, a single handset could interfere with cellular systems in multiple cellular market areas simultaneously. Thus, the Commission concluded that ''the need for noninterference in all cellular transmissions outweighs the benefits that would be realized by allowing the public to use cellular service in airborne aircraft.''

7. Similarly, the part 90 rules restrict the use of SMR handsets while airborne in certain circumstances. The altitude restriction in § 90.423 prohibits operations on aircraft that are regularly flown at altitudes at one mile or above and, consequently, essentially bans part 90 land mobile radio use on commercial airline flights. These rules were enacted to prevent harmful interference with land-based operations by the use of land mobile frequencies aboard high-flying aircraft, especially aircraft operated by scheduled passenger airlines. The rules governing all other commercial mobile spectrum bands are silent with regard to airborne operations.

B. 2004 Airborne Mobile NPRM

8. On December 15, 2004, the Commission adopted the *Airborne Mobile NPRM,* in which it proposed to relax or replace the parts 22 and 90 restrictions on airborne use of cellular mobile handsets. The *Airborne Mobile NPRM* also included several proposals to facilitate the use of wireless devices onboard airborne aircraft, including those used for broadband applications. Overall, the proposals were intended to minimize the potential for harmful interference to terrestrial systems while providing maximum flexibility to wireless telecommunications carriers seeking to address consumer demand for air-ground connectivity.

9. Notably, the *Airborne Mobile NPRM* proposed to require onboard use of picocells to prevent harmful interference to terrestrial mobile networks. Under this proposal, airborne picocells would have been used to manage the power levels of mobile handsets onboard aircraft to ensure that they operated at or near their minimum power levels. The *Airborne Mobile NPRM* also sought comment on whether this proposal should be applied to only the 800 MHz cellular spectrum covered by the current part 22 rule, or whether the picocell requirement should be expanded to include handsets and devices operating on spectrum bands under parts 24, 27, or 90.

10. The Commission received more than 8,000 submissions in the docket. However, few of the commenters provided requested technical analyses. Citing the insufficiency of the technical record and finding that it would be premature to decide the issues presented in the *Airborne Mobile NPRM* without additional information, the Commission terminated the proceeding on March 28, 2007. The Commission, however, left open the possibility of revisiting the issues raised in this proceeding, should new technical information become available.

C. International Developments

11. Since the Commission issued the *Airborne Mobile Termination Order* in 2007, numerous foreign communications administrations have issued regulations that have successfully allowed the non-interfering use of mobile communications services on airborne aircraft utilizing Airborne Access Systems.

12. Most notably, in 2008, the European Commission (EC) mandated that EU member countries allocate the 1800 MHz band, which utilizes Global System for Mobile Communications (GSM) technology, above 3,000 meters for mobile communications onboard aircraft (MCA). The EC issued its Decision following a Report and a Decision from the Electronic Communications Committee (ECC) of the EU's European Conference of Postal and Telecommunications Administrations (CEPT). CEPT MCA Report 16 found that operating an Airborne Access System-based mobile communications system above 3,000 meters above ground level prevents harmful interference to ground-based mobile networks (in all studied bands in which the onboard mobile terminals would be capable of transmitting).

13. Pursuant to the EC Decision, the communications administrations of all twenty-seven EU member states subsequently created licensing mechanisms for airborne mobile services in their individual jurisdictions. On November 14, 2013, the EC issued a new decision modifying the existing EC Decision in order to allow for additional frequency ranges and technologies, such as UMTS and LTE, to be used in aircraft. Prior to this Decision, CEPT issued a Report on the technical aspects of adding these new frequencies and technologies.

14. Outside of the United States, two third-party providers, OnAir and AeroMobile Communications Ltd. (AeroMobile), currently offer mobile communications services on airborne aircraft. OnAir provides such third-party services to airlines including British Airways, Emirates, and Royal Jordanian, while AeroMobile provides such third-party services to airlines including Emirates, SAS, and Virgin Atlantic. According to OnAir, approximately eighty countries across Europe, the Middle East, North Africa, Asia Pacific, North America, and Latin America have authorized the use of its service. As of May 2012, at least one foreign air carrier, Virgin Atlantic, has installed and is operating a system to provide mobile communications services on some aircraft on transatlantic flights from the United Kingdom to the United States.

15. We are not aware of any reported cases of harmful interference to terrestrial systems stemming from the use of Airborne Access Systems since airlines began offering mobile communications services on airborne

aircraft. In response to an FAA inquiry regarding the use of PEDs during flight, Panasonic stated that since deployment of the eXPhone system—a system for providing mobile communications services on aircraft—there has been no harmful interference to aircraft systems or terrestrial networks, nor have there been any system failures. In comments filed by AeroMobile in the same proceeding, AeroMobile stated that it has operated its Airborne Access Systems since 2008 without any reported instances of harmful interference to avionics or other aircraft systems, or to terrestrial mobile networks.

D. Current FCC Authorization of Airborne Broadband Access

16. The Commission first paved the way for in-flight voice and data services in 1990 when it allocated four megahertz of spectrum for commercial Air-Ground Radiotelephone Service. This led to the deployment of service offered via seat-back phones in many commercial aircraft. Additionally, in 1998, the Commission granted to AirCell, Inc. (AirCell) a waiver of § 22.925's airborne cellular prohibition to allow AirCell to use cellular frequencies for in-flight communication using specially designed equipment. In 2005, the Commission reconfigured the 800 MHz Air-Ground Radiotelephone Service to facilitate the provision of broadband service to passengers aboard aircraft. After that, companies began to offer Wi-Fi using unlicensed spectrum on aircraft along with an air-to-ground link.

17. In addition to the 800 MHz Air-Ground band, satellite spectrum also has been used as an air-to-ground link. The L-band Mobile Satellite Service (MSS) has been used to provide data service to and from aircraft since the 1990s. Beginning in 2001, the Commission authorized, on an *ad hoc* basis, the use of earth stations aboard aircraft (ESAA) communicating with Ku-band geosynchronous orbit (GSO) Fixed Satellite Service (FSS) space stations to provide connectivity to airborne aircraft. In December 2012, the Commission adopted service and technical rules for ESAA operations to formalize ESAA as a means of providing in-flight broadband services to passengers and flight crews aboard commercial airliners and private aircraft (in conjunction with in-cabin Wi-Fi).

18. The Commission recently has taken further action to expand access to broadband services onboard aircraft and improve the quality of services offered. Notably, on March 29, 2013, the Wireless Telecommunications Bureau (WTB) granted Gogo's request of a waiver of § 22.853 of the Commission's rules to allow the assignment of one megahertz of LiveTV Inc.'s licensed nationwide 800 MHz Air-Ground Radiotelephone Service license to Gogo. Gogo now has access to all four megahertz of nationwide 800 MHz Air-Ground spectrum, which Gogo asserts is necessary to provide the full array of high-speed wireless communications services that consumers expect.

19. The Commission also has released a *Notice of Proposed Rulemaking* that proposes to establish a new air-ground mobile broadband service in the 14.0–14.5 GHz band. The new service will operate on a secondary, non-interference basis with FSS Earth-to-space communications. If the rules proposed in that proceeding are adopted, the new service would significantly increase the capacity available to aircraft for broadband backhaul.

E. Other Federal Government Actions

20. In January 2013, the FAA Administrator established the PED Aviation Rulemaking Committee (ARC) in order to provide a forum for the U.S. aviation community and PED manufacturers to review comments received from the FAA's Notice of Policy/Request for Comments regarding PED policy and guidance. The ARC was tasked to make recommendations to further clarify and provide guidance on allowing additional passenger PED usage without compromising the continued safe operation of the aircraft. The ARC transmitted its report to the FAA Administrator on September 30, 2013, and the FAA released the report publicly on October 31, 2013.

21. The ARC concluded that most commercial airplanes can tolerate radio interference signals from PEDs. However, PEDs with cellular capabilities must disable those capabilities during flight. The ARC recommended that, subject to this condition, PEDs be permitted to operate ''gate-to-gate'' provided that the airline operators and aircraft manufacturers certify their aircraft to demonstrate ''tolerance'' of emissions from PEDs. While cell phones were excluded from the scope of the ARC Report, the ARC did recommend that the FAA consult with the Commission to review our current rules. On October 31, 2013, the FAA announced that, based on the ARC Report, it had determined that airlines can safely expand passenger use of PEDs during all phases of flight and provided airlines with implementation guidelines.

II. Discussion

22. In the six years since the Commission issued the *Airborne Mobile Termination Order,* the mobile communications landscape has undergone a series of dramatic changes. Global mobile data traffic increased by 70 percent from 2011 to 2012 and, driven by widespread adoption of smartphones, tablets, and other high data use devices, it is projected to increase thirteen-fold by 2017. Consumers are ever more dependent on reliable high speed connectivity for these devices for personal communications, business, and entertainment. Moreover, as noted, numerous international administrations have adopted rules for the safe, non-interfering use of mobile services on airborne aircraft utilizing Airborne Access Systems. The successful widespread international adoption of these systems demonstrates the technical viability of mobile communications services on airborne aircraft today.

23. In light of the increasing demand for mobile communications services on airborne aircraft and widespread confirmation of its technical viability, we propose to revise our rules to enable domestic and international travelers to access mobile services onboard aircraft flying in U.S. airspace. To that end, we propose to: (1) Remove existing Commission restrictions on airborne use of mobile devices in the 800 MHz cellular and 800 MHz SMR bands; (2) harmonize regulations governing the operation of mobile devices on airborne aircraft across all commercial mobile spectrum bands; and (3) implement a comprehensive licensing and regulatory framework to facilitate access to mobile communications services on aircraft. These proposals are consistent with our longstanding commitment to facilitate universal broadband access, promote investment and innovation, and encourage efficient, flexible use of spectrum. We seek comment on these proposals.

24. The proposals in this *NPRM* would also require airlines to install Airborne Access Systems if they choose to provide mobile communications services on airborne aircraft. As described below, the Airborne Access System incorporates hardware and software to enable the provision of service and to manage services onboard the aircraft. In practice, the system would connect wireless devices on the aircraft operating on licensed wireless frequencies to a terrestrial network via satellite or air-ground links. While business models may vary, under one

model, passengers on a flight with an Airborne Access System would be able to access the wireless service to which they subscribe when above 3,048 meters (10,000 feet) through the Airborne Access System, and would be billed for the service directly by their service provider.

25. In this *NPRM,* we also seek comment on the alternative licensing and regulatory frameworks for the provision of mobile communications services on airborne aircraft, the potential impact of these proposals on public safety and national security, and any potential operational issues related to the use of mobile services, including voice, onboard aircraft. We are committed to working closely with other federal agencies that have expertise and may have more appropriate jurisdiction over some of these operational areas.

26. Throughout the *NPRM,* where we seek comment on the costs and benefits of a proposal, we ask that commenters take into account costs and benefits that result from the implementation of the particular rules that could be adopted, including any proposed requirement or potential alternative requirement. Further, to the extent possible, commenters should provide specific data and information, such as actual or estimated dollar figures for each specific cost or benefit addressed, including a description of how the data or information was calculated or obtained, and any supporting documentation or other evidentiary support.

A. Changes to Current Rules Restricting Airborne Mobile Broadband Use

27. As an initial matter, we propose to remove or modify the current restrictions on airborne mobile operations in parts 22 and 90 of the Commission's rules. We propose to replace these restrictions with references to a revised authorization regime under part 87 of the Commission's rules that would allow aircraft station licensees to provide mobile communications services using an Airborne Access System. We seek comment on whether, in light of the proposals set forth herein and recent technological advances, these restrictions remain necessary to prevent harmful interference to terrestrial mobile networks.

28. We also propose to add cross references to the new part 87 airborne mobile service authorization to parts 22, 24, 27, and 90 as set forth in this *NPRM.* (This proceeding does not address paging services authorized under part 22 of the Commission's rules. This *NPRM* is primarily concerned with facilitating the deployment of airborne mobile broadband services and, as such, paging services are beyond the scope of this proposal.) We propose to make the rules governing airborne mobile service consistent across all commercial mobile spectrum bands, thereby reducing confusion, improving administrative efficiency, and promoting Airborne Access System measures that will permit the provision of mobile communications services on aircraft across all commercial mobile spectrum bands. We seek comment on these proposals. Parties that oppose the removal of the extant bans or the harmonization of airborne mobile access rules should provide detailed technical and legal analyses to support their positions.

B. Airborne Access Systems

1. Potential Harmful Interference From Uncontrolled Airborne Mobile Devices

29. Mobile devices typically connect to a wireless network through the nearest cell site that can serve the device. As the distance between the devices and cell sites increases, signals are attenuated by terrain and obstacles such as buildings, and blocked by the curvature of the earth. However, an uncontrolled wireless device on an airborne aircraft could potentially cause co-channel interference at multiple cell sites. This is because, even though the airborne wireless signal becomes weaker with increasing height above the ground, unlike the terrestrial case, it is not attenuated by terrain and obstacles, and it is not affected by the curvature of the earth. Thus, the signal from an airborne handset with an unobstructed line of sight may remain sufficiently strong as the device attempts to access multiple terrestrial sites, causing harmful interference or other undesirable effects to terrestrial systems. We concur with the conclusions in the CEPT MCA Reports that interactions between mobile terminals onboard aircraft and terrestrial mobile networks are possible unless managed properly. Unmanaged airborne mobile devices will attempt to connect and in some cases will succeed in temporarily connecting to a terrestrial system, causing harmful interference and disruption to the system it is connected to and to surrounding systems.

2. Benefits of Airborne Access Systems

30. As set forth above, the current parts 22 and 90 prohibitions on mobile communications services on aircraft were designed to guard against the threat of harmful interference from airborne use of mobile devices to terrestrial wireless networks. Airborne Access Systems are used to minimize the potential for airborne wireless devices interfering with terrestrial networks. The most common Airborne Access System in use internationally today consists of an airborne picocell and a network control unit (NCU). In effect, an airborne picocell is a low power base station transceiver installed in the aircraft for the purpose of communicating with (and controlling the operations of) mobile handsets or other transmitting electronic devices onboard an aircraft. The picocell controls the power levels of all transmitting mobile broadband devices operating onboard aircraft, keeping them at or near their minimum output power. A picocell is analogous to an in-building distributed antenna system (like those used in large buildings, malls, etc.) for use in the aircraft. The signal travels from the handset to the picocell, which then relays the call to the ground via a separate air-ground link, *e.g.,* via a satellite band or the 800 MHz Air-Ground band, after which it can be transferred to the terrestrial network. In addition, the NCU raises the noise floor within the cabin to prevent devices from attempting to communicate with terrestrial networks. Under the rules proposed below, terrestrial service providers and aircraft station licensees would be permitted to negotiate commercial agreements to facilitate access to terrestrial networks. We note that for the Airborne Access Systems to effectively prevent cell phones that have the capability to operate outside the network from attempting to communicate with terrestrial networks and prevent potential interference to avionics, the noise floor likely would have to be raised onboard aircraft in all commercial mobile spectrum bands. We seek comment on whether airline passengers would be capable of accessing broadband services onboard aircraft over commercial mobile spectrum bands absent an agreement between their terrestrial mobile service provider and the aircraft station licensee.

31. Used in this manner, Airborne Access Systems appear to be an effective means of providing airline passengers with mobile broadband connectivity, while preventing harmful interference to terrestrial wireless networks. Indeed, as noted above, Airborne Access Systems are used to provide mobile broadband connectivity on flights in Europe and Asia. To date, we are unaware of any instances of harmful interference to terrestrial systems

resulting from the use of PEDs in conjunction with an Airborne Access System on airborne aircraft. While these international systems primarily utilize GSM technology, such use also is now permissible with other mobile technologies such as CDMA and LTE. We seek comment on the use of non-GSM mobile technologies onboard aircraft and ask commenters to submit technical analyses and studies to support their arguments. We also seek comment on whether the potential for harmful interference to terrestrial networks could vary depending on how heavily Airborne Access Systems are used. Further, while we believe that airborne picocells are a proven technology and could be used as effective Airborne Access Systems on domestic flights, consistent with our commitment to technological neutrality, we propose to permit any type of Airborne Access System that meets the technical requirements set forth in the rules and any applicable rules and approval procedures required by the FAA.

3. Technical Requirements

32. Based on the available research and international practices, we tentatively conclude that Airborne Access Systems can be used to facilitate airborne mobile broadband access without causing harmful interference to terrestrial networks. We therefore propose to allow airborne use of mobile devices controlled by a properly managed Airborne Access System.

33. Our review of existing operations reveals that, for an Airborne Access System to effectively manage emissions from mobile broadband-capable devices, certain technical restrictions must be enforced. Specifically, three types of devices transmitting aboard the aircraft must be limited in power to prevent harmful interference to terrestrial networks: (1) The mobile device; (2) the picocell; and (3) the NCU. Measures that may be taken to limit power include, but are not necessarily limited to, mobile power restrictions, aircraft picocell power restrictions, NCU power and/or technology limitations, altitude restrictions, and methods to prevent an airborne mobile phone from accessing the terrestrial CMRS network. We use the technical analyses and conclusions released by CEPT earlier this year on these matters as a baseline for our technical inquiries. We note that this report focused only on European commercial mobile spectrum bands, and believe that CEPT's findings are a solid foundation on which we can adopt technical requirements. We seek comments on this belief, as well as on the potential implications of the use of different spectrum bands in the United States. Are there any differences between the commercial mobile spectrum bands used in the EU and those used in the United States that would affect the relevant CEPT findings? We also ask commenters to provide us with any tests or technical analyses that have been performed regarding the use of Airborne Access Systems over commercial mobile spectrum bands in use in the United States. We note that the international systems appear to offer service only in a particular frequency band or bands. Should Airborne Access Systems be permitted to operate only in particular frequency bands? If so, which bands and what impact might this have on competition?

a. Mobile Device

34. Unmanaged airborne PEDs will attempt to connect and in some cases will succeed in temporarily connecting to a terrestrial system, causing harmful interference and disruption to the system it is connected to and to surrounding systems. Thus, airborne mobile devices must be operated at sufficiently low power levels to prevent harmful interference with terrestrial broadband networks while still being able to communicate with the Airborne Access System.

35. CEPT MCA Report 48 concluded that an Airborne Access System would not interfere with terrestrial networks provided it met certain technical criteria. It defined acceptable radiation from various sources for a point outside the aircraft at various altitudes. At 3,000 meters (approximately 9,842 feet), the report specifies an aggregate effective isotropic radiated power (EIRP) of 3.1 dBm/3.84 megahertz outside the aircraft for up to 20 individual mobile UMTS devices limited to −6 dBm/3.84 megahertz. The report also specifies a limit of 1.7 dBm/5 megahertz for individual LTE devices transmitting at 5 dBm/5 megahertz at 3,000 meters. Because the analysis in CEPT MCA Report 48 is limited to frequency bands utilized within the EU, we request comment on whether the same findings are applicable to systems operating on bands used for commercial mobile radio services in the United States and whether any adjustments to CEPT MCA Report 48's findings or methods should be made. For example, the report assumed operation in the 2100 MHz and 1800 MHz bands. The limitations discussed above, if applicable, could be adjusted to account for changes in free space path loss for operation on U.S. spectrum. We encourage commenters to submit relevant data and studies pertaining to bands used for commercial mobile radio services in the United States. What, if any, adjustments to these assumptions must be made for other mobile technologies? We also request comment on whether it is necessary to limit the number of mobiles in operation, or if an aggregate limit for emissions from the aircraft is sufficient to protect terrestrial systems from harmful interference. Is such an approach practical? Should the rules require the Airborne Access System to limit the maximum in-cabin transmit power of individual mobile units rather than specifying the allowable aggregate EIRP outside the aircraft? Commenters should include technical analyses to support their proposals, including the costs and benefits of adopting a particular approach.

b. Aircraft Picocell

35. The aircraft picocell communicates with the individual mobile devices onboard the aircraft and with its air-to-ground or satellite backhaul link. The power of onboard picocells must be limited to prevent harmful interference to the terrestrial network. CEPT MCA Report 48 limits the EIRP outside the aircraft from picocell transmissions to 1.0 dBm/3.84 megahertz for UMTS and 1.0 dBm/megahertz for LTE. We request comment on whether these levels are appropriate and can be applied to operations on U.S. commercial mobile spectrum bands. We also encourage commenters to submit relevant data and studies pertaining to bands used for commercial mobile radio services in the United States. What would be an appropriate method of making measurements or otherwise determining compliance? How should the Commission approach equipment authorization of picocells given that compliance would be determined by the aircraft in which the system is installed? We also request comment on whether we should limit the type of technology utilized for communications between the picocell and onboard mobiles to minimize the risk of harmful interference with terrestrial networks. We note that in its initial report, CEPT limited its analysis of communication services aboard aircraft to picocells operating with GSM technology but its more recent report offers expanded analysis on both UMTS and LTE. From an interference standpoint, are some technologies used on airborne aircraft less likely to cause harmful interference to terrestrial networks than others?

c. Network Control Unit

36. The NCU prevents mobile devices from connecting to the terrestrial network while on the aircraft. Uncontrolled, some mobile devices are capable of contacting terrestrial networks, even at altitudes exceeding 3,048 meters (10,000 feet). The NCU raises the noise floor within the aircraft cabin to prevent onboard mobile devices from communicating with the terrestrial network. NCUs also must be limited in power to prevent harmful interference to terrestrial networks. CEPT MCA Report 48 specifies for operations in the 2600 MHz (2500–2570 MHz and 2620–2690 MHz) band a limit at 3000 meters of 1.9 dBm/4.75 megahertz and for operations in the 800 MHz (790–862 MHz) band the limit is 0.87 dBm/10 megahertz. The EC previously established limits for the 460–470 MHz, 921–960 MHz, 1805–1880 MHz, and 2110–2170 MHz bands in its Decision. Those findings were reaffirmed by CEPT MCA Report 48. We request comment on whether these levels are appropriate and can be applied to operations on domestic mobile spectrum bands. As CEPT MCA Report 48 limits vary by frequency band, which of these limits would be appropriate for each of the bands used for commercial mobile service in the United States? We encourage commenters to submit relevant data and studies pertaining to bands used for commercial mobile radio services in the United States. We also seek comment on whether there are other technical solutions that could prevent an onboard mobile device from accessing the terrestrial network.

37. We also seek comment generally on CEPT's findings and technical proposals. We ask that commenters address: (1) Whether Airborne Access Systems can effectively prevent harmful interference into terrestrial wireless networks; (2) whether alternative or supplemental technological solutions would be more effective; (3) whether the proposed power levels are appropriate; and (4) what additional technical specifications may be needed to ensure that these systems and airborne mobile broadband devices do not interfere with existing terrestrial networks. We also request comment on any other technical restrictions or requirements that may be necessary to prevent harmful interference to terrestrial CMRS networks or to ensure reliable communications for mobile communications services on aircraft, or whether an alternative technical solution may be more appropriate in the domestic marketplace. Commenters should include technical analyses to support their proposals, including the costs and benefits of adopting a particular approach.

38. We reiterate that the FAA is responsible for regulations regarding the safety of passengers and crew aboard domestic aircraft. As such, regardless of the ultimate disposition of this proceeding, all elements of the Airborne Access Systems and any permissible airborne mobile devices remain subject to applicable FAA rules. In addition, elements of these systems may be subject to FAA certification, testing, and approval; the FAA has a comprehensive process by which it certifies all aspects of commercial and general aviation aircraft, and any Airborne Access System presumably would be subject to these procedures. In addition, in response to the ARC Report, the FAA has adopted procedures to test and certify that aircraft manufactured in the United States are tolerant of PED emissions.

39. Although any FAA actions related to the issues in this proceeding are outside the Commission's scope, in order to fully comprehend this regulatory framework, we seek information regarding any aspect of the FAA's authority regarding Airborne Access Systems that we should appropriately consider in this proceeding. We reiterate that we are committed to working closely with other federal agencies that have expertise and may have more appropriate jurisdiction in these areas.

40. Moreover, we note that, within the context of applicable FCC, FAA, and DoT rules, individual airlines will have flexibility to deploy or not deploy mobile communications services on an aircraft-by-aircraft basis. For example, abroad, OnAir and AeroMobile offer airlines the option of selecting which type of mobile communications services they offer, and foreign airlines have chosen to offer the mobile communications services in different ways. For example, Ireland's Aer Lingus allows texting and Internet access using mobile communications but does not allow the use of voice calls in the cabin, while the UK's Virgin Atlantic offers passengers the option of accessing the Internet, texting, and making voice calls through their mobile communications system.

C. Airborne Commercial Mobile Use

41. We propose to allow aircraft station licensees to provide airborne commercial mobile services as part of their aircraft station license under part 87 of the Commission's rules and seek comment on alternative authorization methodologies. Under any airborne authorization scheme, Airborne Access Systems would be required to manage in-flight mobile use. Mobile communications services controlled by authorized Airborne Access Systems would be permitted across all commercial mobile spectrum bands at altitudes above 3,048 meters (10,000 feet). These authorizations would cover only in-cabin operations. Moreover, any authorization method would require an agreement with separately authorized satellite or air-to-ground backhaul links to transmit mobile data from the aircraft to terrestrial networks.

1. Part 87 Authorization Methodology

a. Part 87 Aircraft License Modification

42. We propose to revise part 87 of the Commission's rules to permit mobile communications services on aircraft as one element of an aircraft station license and seek comment on this proposal, as well as alternative authorization frameworks. Part 87 of the Commission's rules governs the authorization and use of radio services onboard aircraft, between aircraft, and between air and ground stations for aircraft travelling domestically and U.S. aircraft travelling to international destinations (including international waters). *See* 47 CFR 87.1, *et seq.* We note that U.S.-registered civil aircraft licensed for an Airborne Access System would bear the responsibility of ascertaining and complying with the applicable laws, regulations, and rules of any foreign nation in which they seek to operate. Unless exempted, airlines must obtain an aircraft station license to cover any radio equipment or services other than certain two-way VHF, radar, or emergency locator services. Under certain conditions, two or more aircraft having a common owner or operator may be issued a single fleet license to cover all aircraft stations in a given fleet. We seek comment on how this proposal would work with FAA's established airframe dependent equipment certification procedures.

43. Authorizing the proposed use in this manner would allow airlines and other commercial aircraft operators to install and operate Airborne Access Systems as part of their existing aircraft station or fleet licenses. Aircraft station licensees would be required to file for a modification of their existing aircraft station or fleet licenses on FCC Form 605 to include the newly designated airborne mobile communications authorization. To the extent that an aircraft operator does not have an aircraft station license, that aircraft operator would, under this proposal, be

required to apply for an aircraft station license in order to operate an Airborne Access System. Licensees would be permitted to contract with third parties to install and operate Airborne Access System aboard licensed aircraft. However, aircraft station licensees would retain sole responsibility for ensuring that such equipment is installed and operated in accordance with all applicable rules.

44. The airborne radio environment is interference-sensitive and must be closely controlled by aircraft station licensees to ensure stable operation of mission critical equipment, the safety of aircraft passengers and crew, and compliance with all applicable rules and regulations. Aircraft station licensees currently manage this unique environment for a wide variety of radio services in accordance with FCC and FAA rules. As such, they may be well positioned to ensure that Airborne Access Systems are properly operated and integrated into the existing device ecosystem. Indeed, regardless of the authorization scheme we select, no Airborne Access System could be installed and operated without the permission, supervision, and control of aircraft station licensees. In addition, modifying existing aircraft fleet or station licenses to include proposed airborne mobile communications use should not impose significant administrative burdens on applicants or the Commission. Finally, this proposal is roughly analogous to the successful authorization regimes adopted by other administrations in recent years.

45. We propose to retain the current licensing assignment methods applicable to part 87 aircraft station licenses. Although we propose to permit licensees to provide a new service offering, the underlying functions of aircraft station licenses remains the same. Under this proposal, existing aircraft station licensees seeking to provide mobile communications services on aircraft could request a modification of their current authorizations to permit operation of an Airborne Access System, and applicants for new aircraft station authorizations could indicate on their applications their intention to provide mobile communications services on aircraft. We seek comment on whether such license modifications must be placed on public notice for thirty days pursuant to section 309 of the Communications Act. We seek comment on this proposed authorization approach, as well as the alternative authorization mechanisms listed below, and on what changes, if any, may need to be made to the table of allocations to reflect this licensing regime.

46. We acknowledge that, with respect to the NCU transmissions and the communications between the picocell and the consumer mobile devices, the Airborne Access System proposed here would operate on spectrum licensed to mobile service providers for terrestrial wireless use. However, we do not propose to modify the existing rights of commercial mobile licensees or otherwise impede their ability to provide mobile services within their license areas. Under our proposal, aircraft operators should be able to offer access to wireless services to the limited confines of the in-cabin environment in a safe and effective manner—and thereby extend broadband service to an otherwise difficult-to-serve market segment—while protecting incumbent terrestrial licensees from harmful interference and without infringing upon incumbents' existing operations. We seek comment on this proposal, including potential impacts it may have on the existing rights of terrestrial mobile licensees.

b. Alternative Authorization Methods

47. We also seek comment on alternative authorization methods. For completeness, we describe several alternatives below, although we acknowledge that some of these methods may suffer from deficiencies that make them less desirable in a public interest analysis. We also request comment on other approaches that are not enumerated below. We encourage commenters to provide details on how any authorization regime, including the part 87 authorization method described above, would work in practice (including the relationship with other licensees or services authorized in the same frequency bands), how it would further the various public interest goals enumerated in this *NPRM,* and its relative costs and benefits.

48. Non-Exclusive License. One alternative authorization method would establish an Airborne Access System Service pursuant to which applicants could file for non-exclusive licenses to provide airborne mobile services. Eligibility for such licenses would be limited to applicants with appropriate commercial agreements with aircraft operators to operate such systems on specific aircraft. Would such an authorization system provide additional benefits to the public or to aircraft station licensees? Under this alternative authorization scheme, would the airlines retain sufficient control over the in-cabin environment to ensure that services are provided safely and effectively? Are there any additional eligibility conditions that should be required of licensees under this authorization method?

49. Secondary Markets. Another option would authorize operation of an Airborne Access System pursuant to spectrum lease agreements with mobile wireless service providers. We observe that for any given flight, an aircraft is likely to fly above license areas for many different licensees. Moreover, the licensees implicated will likely vary throughout the course of the flight. The Commission has issued thousands of geographic mobile licenses. There are over 14,166 licenses, held by approximately 788 unique entities (based on licensee FCC Registration Number), for the spectrum bands within the scope of this *NPRM.* Would this authorization method be administrable in practice? How would the Commission ensure that a leasing arrangement involves the necessary parties? Would it require the cooperation of every mobile wireless service provider? Would the use of a leasing framework introduce market efficiencies or inefficiencies not present in other authorization models? Under this alternative, how would the Commission determine the boundaries of mobile licenses along a flight path and at various altitudes, especially considering the curvature of the earth?

50. Auctioned Sky Licenses. Alternately, should the Commission create nationwide or geographic ''sky licenses'' and allow eligible applicants to bid on these licenses via auction? Would such an authorization system provide unique benefits to the public or to aircraft station licensees? How would the Commission determine the geographic boundaries of such licenses and the proper number of licensees for each geographic area? How would such a licensing construct affect the ability of airlines to manage their in-cabin environment? Would such an authorization method create ''artificial'' limitations on market-based agreements between airlines and Airborne Access System providers?

51. Unlicensed Use or License-by-Rule. Should the Commission authorize unlicensed use of an Airborne Access System pursuant to our part 15 rules? Alternatively, would a license-by-rule approach be appropriate? Both methods appear, on first consideration, to raise significant issues with respect to providing airlines sufficient ability to manage mobile access in flight and to mitigate potential harmful interference into terrestrial networks. Do commenters agree? How would such authorization mechanisms work in

practice? Would they require revisions to existing rule parts? Would these methodologies offer appropriate Commission oversight of the mobile communications services being proposed?

52. Commenters that advocate an alternative authorization methodology should support their arguments with detailed technical and legal analyses. Commenters should also address how the issues raised in Sections III.C.2. and 3. below would apply for any alternative authorization scheme.

2. Scope of the Authorization

53. To facilitate the widespread use of airborne mobile data services, we propose to authorize aircraft station licensees to operate Airborne Access Systems that encompass all domestic commercial mobile spectrum bands. Most broadband capable mobile devices are capable of accessing multiple commercial mobile spectrum bands which vary by device and mobile service provider. We tentatively conclude that permitting Airborne Access Systems to operate across all such bands would provide greater access to broadband data for the travelling public, and is consistent with the Commission's longstanding policy of technological neutrality. However, our proposal does not require a compliant Airborne Access System to cover all commercial mobile spectrum bands or wireless technologies. We seek comments on our proposal to not require Airborne Access Systems to cover all commercial mobile spectrum bands, including on whether this approach may increase the risk of harmful interference to terrestrial networks.

54. We further propose that airborne commercial broadband operations be permitted only at altitudes exceeding 3,048 meters (10,000 feet). The available research suggests that, at those altitudes, there is little to no risk of harmful interference into terrestrial mobile networks from properly managed airborne mobile operations. Moreover, this service floor is consistent with the rules established by the EU for airborne GSM mobile use. As noted above, we are unaware of any instances of harmful interference from properly managed airborne mobile broadband operations at altitudes above 3,048 meters (10,000 feet) into terrestrial mobile networks. We seek comment on whether the 3,048 meter (10,000 feet) service floor is appropriate for all mobile technologies (*e.g.,* CDMA, GSM, and LTE) and spectrum bands. We also seek comment as to whether we should allow Airborne Access Systems to remain operational below 3,048 meters (10,000 feet), even if mobile communications services are not permitted at that altitude. Could low altitude Airborne Access System use actually help mitigate harmful interference by preventing activated mobile devices from attempting to access terrestrial networks? We encourage commenters to support their arguments with detailed technical studies and analyses for domestic commercial mobile spectrum bands and technologies, including detailed analyses of the costs and benefits of any such proposals.

55. We tentatively conclude that, if adopted, our proposal to permit the provision of mobile communications services on aircraft-by-aircraft station licensees at altitudes above 3,048 meters (10,000 feet) would promote the public interest by expanding mobile broadband coverage to consumers in an efficient, non-interfering manner. The deployment of Airborne Access Systems aboard commercial aircraft could provide significant public benefits without harming existing terrestrial licensees in the band. Moreover, terrestrial mobile licensees could benefit from this new commercial service offering if they choose to partner with aircraft station licensees on commercial connection agreements. We seek comment on these proposals and conclusions as well as viable alternative models. Commenters should provide detailed legal and technical analyses in support of their proposals, including detailed analyses of the costs and benefits of any such proposals.

3. Other Authorization and Licensing Issues

56. Regulatory Status. While aircraft stations authorized under part 87 are typically considered private mobile radio services, we propose to allow aircraft station licensees choosing to offer mobile communications services using an Airborne Access System to specify their regulatory status depending on the service they are providing. The Commission's current radio service license application requires an applicant for mobile services to identify the regulatory status of the service(s) it intends to provide because service offerings may bear on the applicant's eligibility to be a licensee, and other statutory and regulatory requirements. In applying that model, an applicant is permitted to choose among several regulatory classifications (*e.g.,* common carrier, non-common carrier, or private, internal communications), or a combination thereof, and prospective airborne mobile licensees may benefit from a similar approach. We seek comment on the merits of applying a similar licensing approach to the provision of mobile communications services on aircraft and ask that commenters discuss the costs and benefits of this approach. We also seek comment on whether there are any obligations under a particular classification that should not apply to mobile communications services on aircraft. For example, should an aircraft station licensee that elects a common carrier regulatory status be required to comply with all rules applicable to CMRS licensees under part 20 of the Commission's rules given the limited scope of the in-cabin service offering? For example, § 20.15 identifies requirements relating to Title II of the Communications Act that are applicable to CMRS licensees. *See* 47 CFR 20.15. Such Title II requirements include the obligation to provide service ''upon reasonable request therefor,'' and at a ''just and reasonable'' rate, 47 U.S.C. 201, as well as the requirement to provide services without ''unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services.'' 47 U.S.C. 202. Other obligations identified in part 20 include 911 service, hearing aid compatibility as well as roaming. *See* 47 CFR 20.12, 20.18, 20.19.

57. If the Commission permits an aircraft station licensee to choose its regulatory status in this manner, we propose that such licensees must identify their regulatory status on the FCC Form 605. Form 605 would be modified to incorporate this proposal. We also propose that if a licensee changes the service it offers such that it would be inconsistent with its regulatory status, the licensee must notify the Commission. Further, we propose that licensees must file the notice within 30 days of a change made without the need for prior Commission approval. We seek comment on whether a different time period should apply where the change results in the discontinuance, reduction, or impairment of the existing service. We seek comment on alternative proposals regarding changes to the regulatory status of a mobile communications services on aircraft provider and the costs and benefits of such proposals.

58. Given our proposal to allow an aircraft station licensee to choose its regulatory status, we note that all Commission licensees are subject to the provisions of section 310 of the Act. Section 310 requires the Commission to review foreign investment in radio station licenses and imposes specific restrictions on who may hold certain types of radio licenses. Specifically,

section 310(a) of the Act expressly prohibits a foreign government or its representative from holding any radio license. Further, section 310(b) places additional restrictions on who can hold a broadcast, common carrier, aeronautical en route and aeronautical fixed radio station license. In particular, the foreign ownership restrictions in sections 310(b)(3) and (b)(4) may be implicated for those airlines that have foreign ownership—whether governmental or non-governmental—where the airline provider seeks authorization to provide a common carrier service under the rules adopted in this proceeding. We therefore tentatively conclude that we should revise FCC Form 605 to require all applicants to answer foreign ownership questions to ensure compliance with section 310. We seek comment on this tentative conclusion.

59. Connection with Terrestrial Networks. The rules governing connection with terrestrial networks would vary depending on the regulatory classification selected by a given aircraft station licensee. Aircraft station licensees that choose to register as CMRS providers would be subject to applicable part 20 and common carrier obligations. The requirements applicable to a regulatory classification would govern the rights and obligations of licensees' connections to terrestrial networks. All licensees would be permitted to enter into commercial agreements with terrestrial mobile licensees for connection to their terrestrial wireless networks. We seek comment on the costs and benefits of this approach and any other approaches that may be used to connect mobile communications services on aircraft with terrestrial networks.

60. Handset Authorization. Section 301 of the Communications Act requires a valid FCC license to operate a radio frequency transmitter, including a wireless handset, aircard, or other mobile broadband device. This statutory requirement is reflected in the Commission's rules, which require either an FCC license or licensee consent to operate a station in the Wireless Radio Services. Our proposal grants aircraft station licensees authorization to operate Airborne Access Systems on commercial mobile spectrum bands. As the definition of Wireless Radio Services includes services provided pursuant to part 87 of the Commission's rules, we conclude that, for purposes of airborne mobile communications services operations, wireless devices can be operated as subscriber equipment under the aircraft station license, consistent with the proposed rules set forth in this *NPRM.* We seek comment on this tentative conclusion.

61. Section 333. Section 333 of the Communications Act states that ''[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act. . . .'' The proposed Airborne Access Systems likely will operate by maintaining transmissions from mobile devices operating on commercial mobile spectrum bands at or near their lowest power level, thereby preventing these devices from attempting to access terrestrial base stations. We tentatively conclude that, pursuant to § 1.903 of the Commission's rules, mobile units would be deemed to be authorized and operated under the aircraft station license. Accordingly, we tentatively conclude that operation of an Airborne Access System to prevent mobile transmissions from affecting terrestrial base stations constitutes a proper network management function and is not the willful or malicious interference at issue in section 333. We seek comment on these tentative conclusions.

62. Federal Spectrum. Most of the Airborne Access Systems currently authorized by foreign countries operate, at least partially, in the 1800 MHz band, consistent with international commercial allocation of this band. It is conceivable that U.S.-registered aircraft that wish to offer airborne mobile communications services will choose Airborne Access Systems with the technical ability to operate in that band, particularly those aircraft that operate internationally. Included in this band are the frequencies 1755–1850 MHz, which in the United States currently is allocated on an exclusive basis to the United States federal government for fixed and mobile services, including airborne systems. We therefore propose requiring airlines (whether U.S.-registered or registered by another administration) operating an Airborne Access System in the 1755–1850 MHz frequency band to turn off the Airborne Access System or otherwise disengage transmission in this band prior to reaching U.S. airspace. We also invite commenters to provide technical studies demonstrating what is sufficient to prevent harmful interference in the 1755–1850 MHz band. We seek comment on this proposal, including potential in-flight enforcement issues. We also note that the Commission has proposed to make the 1755–1780 MHz band available for shared federal and non-federal use. We seek comment on what, if any, impact such shared operations could have on the proposals set forth in this *NPRM.* In addition, we note that other bands are subject to operational limitations that could affect their availability for airborne commercial mobile operations. We seek comment on what, if any, impact such operational limitations could have on the proposals set forth in this *NPRM.* Given our proposal to prohibit operations on Federal frequencies, we invite comment as to whether it would be technologically feasible for systems designed for international flights to switch to authorized non-federal frequency bands in United States airspace.

4. Applicability to Non-U.S.-Registered Aircraft Operating in U.S. Airspace

63. Non-U.S.-registered aircraft with Airborne Access Systems currently turn off airborne mobile communications services before entering U.S. airspace. We seek comment on whether it is in the public interest to allow aircraft authorized by a foreign government to provide mobile communications services to continue operating its Airborne Access System within U.S. airspace and thereby provide uninterrupted airborne mobile communications services to its passengers.

64. We also seek comment on the appropriate regulatory framework for the operation of Airborne Access Systems on non-U.S.-registered aircraft within U.S. territory. The ability of a foreign entity to use spectrum or operate radio equipment within the United States stems from rights derived from international agreements, or from direct authorization from the United States. Accordingly, in determining how such use may be permitted, we must take several factors into consideration, including the applicability of international agreements to which we are a party.

65. The United States is a signatory to the Convention on International Civil Aviation (Chicago Convention), which provides a mechanism for recognizing foreign licenses. Under the Chicago Convention, aircraft registered to a member country may use radio transmitter equipment over another country's territory provided that the transmitter is licensed by the country that registered the aircraft and that said use is in compliance with the regulations of the country over which the aircraft is flying. The Chicago Convention also provides that licenses issued by member nations must be equal to or above the minimum standards adopted by the International Civil Aviation Organization (ICAO). As we

interpret the Chicago Convention, foreign-registered aircraft do not currently have authority to operate an Airborne Access System within U.S. airspace as such use is not currently permitted under the Commission's rules.

66. Further, to the extent the Commission adopts rules to permit mobile communications services on aircraft, a non-U.S.-registered carrier may operate an Airborne Access System that complies with such rules. Moreover, we are not aware that ICAO has adopted or intends to adopt standards and recommended practices for the operation of Airborne Access System pursuant to the Chicago Convention. We therefore tentatively conclude that the Chicago Convention is not an independent source of authorization for foreign airlines to operate an Airborne Access System within U.S. airspace. It also does not appear that other agreements offer a means by which the United States may recognize the authority of a foreign-registered aircraft to operate an Airborne Access System. We also are not aware of any bilateral agreements between the United States and any other administrations that would serve as a mechanism for allowing foreign-registered aircraft to operate an Airborne Access System over U.S. airspace.

67. In light of these considerations, we tentatively conclude that current agreements do not provide non-U.S.-registered carriers independent authorization to operate Airborne Access Systems in U.S. airspace. We seek comment on these tentative conclusions. Commenters believing otherwise should identify the applicable agreement(s) and legal authority under which we may permit such operation. We also request comment on any other mechanisms that might allow for recognition of an Airborne Access System authorization issued by another administration.

68. Assuming that there are no international agreements permitting foreign-registered aircraft to operate an Airborne Access System within U.S. airspace, we seek comment as to whether the Commission should directly authorize such use on the same terms that would apply to Airborne Access System operation onboard domestic aircraft. Specifically, operators of foreign-registered aircraft would be permitted to apply for an aircraft station license under part 87 for the purpose of providing access to airborne mobile communications services to passengers while within U.S. airspace. For foreign-registered aircraft, the part 87 aircraft station license would authorize Airborne Access System operation only and would not cover other aircraft station functions. We seek comment on this proposal, as well as on any alternative licensing approaches. Commenters should discuss the costs and benefits of this or any alternative proposal. We note that applications for such authorizations would be subject to the foreign ownership provisions of sections 310(a) and (b) of the Act, just as they apply to operators of U.S.-registered aircraft.

D. Other Issues

1. Service Below 3,048 Meters (10,000 Feet)

69. As noted previously, the proposed 3,048 meter (10,000 feet) altitude floor for airborne mobile communications services would minimize the risk of harmful interference with terrestrial networks and is consistent with FAA regulations and international practices. However, there may be circumstances where mobile communications services on aircraft operating below 3,048 meters (10,000 feet) would be in the public interest and would not cause harmful interference. We seek comment as to whether there are circumstances in which mobile communications services on aircraft would not raise the concerns set forth above (*e.g.,* in low flying, slow moving aircraft) and whether the 3,048 meter (10,000 feet) altitude limit and/or Airborne Access System requirement would be necessary in such cases. For instance, certain providers of critical public services routinely operate aircraft at altitudes below 3,048 meters (10,000 feet) and may have a need for mobile communications services at these altitudes. These operators include medical evacuation, police departments, news organizations, and public safety entities. Could these use cases be accommodated within the proposed rules? What would the appropriate regulatory and technical parameters be for the use of mobile communications services on aircraft by these and other, similarly situated entities?

70. While we propose to authorize service only above 3,048 meters (10,000 feet) for all commercial aircraft, we also seek comment generally on the technical viability, safety, and legality of mobile communications services on aircraft below 3,048 meters (10,000 feet) (or other reasonable altitude limit adopted in this proceeding) for specific purposes on certain types of aircraft. Would operations below 3,048 meters (10,000 feet) be technically viable? Should Airborne Access Systems be permitted to remain in operation at altitudes below 3,048 meters (10,000 feet)? Would such low altitude operations help to mitigate the potential for harmful interference from mobile devices into terrestrial mobile networks? If allowed, would such operations require the permission of terrestrial CMRS licensees? We emphasize that nothing in this proposal should be read to contradict the FAA's authority to determine the proper conditions for operation of PEDs on aircraft.

2. Voice Service Onboard Aircraft

71. In response to the 2004 *Airborne Mobile NPRM,* commenters raised concerns regarding the use of voice services on airborne aircraft. We note that airborne voice service, *e.g.,* 800 MHz Air-Ground Radiotelephone Service, has been available on many airlines for years, although we understand that voice service has been little-used. At the time of the *Airborne Mobile NPRM* proceeding, commercial wireless was primarily a voice service. Today, commercial mobile services are used much more heavily for data services and Internet access. We appreciate that some people and organizations may continue to have concerns about permitting voice services on aircraft. We also note that international airlines offering airborne mobile voice and data services have not experienced significant problems related to voice. Yet, consistent with our review of our technical rules and commitment to technological neutrality, our proposal would create an avenue through which airlines may choose to offer consumers an additional way to access mobile broadband services while in flight.

72. Nothing in this proposal would require or ensure the provision of voice service on airplanes. Individual airlines would determine whether this option would, in fact, be available to their passengers. The airlines themselves would be free to choose and manage the types of in-flight data and voice services they provide, subject to applicable FAA and DoT rules or guidelines with respect to safety and etiquette. These considerations notwithstanding, however, we seek comment on whether it is appropriate for the Commission to take concerns regarding the use of voice service into account in this proceeding. Specifically, we seek comment on the operational impacts that may stem from the provision of voice service, and whether the Commission has any role in addressing such effects. We also recognize that the provision of wireless services, including, but not limited to, voice onboard aircraft may require consumer education to ensure that consumers are aware of what FCC rules

do and do not permit. We seek comment on the ways that the Commission can help consumers understand our current rules and any rules that the Commission may ultimately adopt in this proceeding.

3. Agreements With Canada and Mexico

73. We conclude that any Airborne Access System rules we adopt in this proceeding would limit such operations to U.S. airspace and would require such operations to comply with current and future international agreements with Mexico and Canada. Until such time as any agreements between the United States, Mexico and/or Canada can be agreed to for the proposed airborne mobile communications service, any operations conducted pursuant to rules adopted in this proceeding must not cause harmful interference across the border, and must operate consistent with the terms of the international agreements currently in force. We also note that it may be necessary to modify any rules adopted in this proceeding to codify future agreements with Canada and Mexico regarding the aeronautical use of these bands. We seek comment on these conclusions.

4. Law Enforcement and Public Safety

74. While this *NPRM* focuses primarily on the technical parameters and licensing mechanisms by which we may allow airlines to offer mobile wireless services on aircraft, we recognize that our proposals may also raise public safety, law enforcement and national security concerns. We note that wireless service providers are currently obligated to provide assistance to law enforcement agencies with respect to the Communications Assistance for Law Enforcement Act (CALEA). Specifically, Congress enacted CALEA in 1994 in order to preserve the ability of law enforcement agencies to conduct electronic surveillance by requiring that telecommunications carriers and manufacturers of telecommunications equipment modify and design their equipment, facilities, and services to ensure that they have necessary surveillance capabilities. In addition to telecommunications carriers identified in CALEA and its legislative history, the Commission has concluded that facilities-based broadband Internet access providers and providers of interconnected Voice over Internet Protocol (VoIP) service would also be deemed to be ''telecommunications carriers'' for purposes of applying CALEA. Accordingly, we propose that any mobile wireless services offered by Airborne Access System operators would be subject to the provisions of CALEA, regardless of whether such offerings are voice or data services.

75. Beyond satisfying CALEA obligations, satellite providers, ESAA operators, as well as 800 MHz Air-Ground licensees address specific public safety, law enforcement, and national security concerns through individual negotiations with law enforcement agencies. We anticipate that an entity seeking to provide mobile wireless services through the use of an Airborne Access System would follow the established process and work diligently with law enforcement agencies to address any public safety, law enforcement, and national security concerns through individual negotiations and agreements.

76. We seek comment on whether there are additional measures that the Commission should take to address in-flight safety and security concerns beyond CALEA obligations and individual agreements among service providers and law enforcement agencies. While we again emphasize that issues of onboard security and safety of flight are matters primarily reserved for the FAA, DoT, and the airlines, there may be measures within our regulatory purview that can be taken to further the Commission's interests in preserving and promoting public safety and homeland security. We therefore request that commenters identify specific public safety, law enforcement and national security-related concerns that may stem from the Commission's proposals, and the steps that the Commission could take to address those concerns.

III. Ex Parte Rules

77. The proceeding this *NPRM* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

IV. Initial Regulatory Flexibility Analysis

78. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *NPRM.* Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM.* The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

79. By this *NPRM,* we propose to allow airlines (or more specifically, station licensees) to provide mobile communications services on aircraft (mobile communications services on aircraft). Currently, the Commission's rules prohibit airborne use of mobile devices in the 800 MHz cellular band and restrict use in the 800 MHz SMR band, while the rules governing other commercial mobile spectrum bands are silent. Since a previous *Notice* of Proposed Rulemaking that sought to address these restrictions was terminated in 2007, more than forty jurisdictions, including the European

Union and Australia, have authorized the use of mobile communications services on aircraft. To the best of our knowledge, there have been no reports of these services causing any harmful interference to terrestrial networks. We believe that it is in the public interest to bring the benefits of mobile communications services on aircraft to domestic consumers and that the proposals set forth in this *NPRM* further our recent efforts to expand access to airborne broadband services.

80. We propose to allow mobile communications services on aircraft by: (1) Removing existing restrictions on airborne use of mobile devices in the 800 MHz cellular and 800 MHz SMR bands; (2) harmonizing regulations governing the operation of mobile devices on airborne aircraft across all commercial mobile spectrum bands; and (3) implementing a comprehensive regulatory framework to promote airborne mobile data use using all commercial mobile spectrum bands.

81. Under our proposal, we would add the authority to provide mobile communications services on aircraft across all commercial mobile spectrum bands (as categorized below) to the existing part 87 aircraft station licenses of domestic airlines. Alternatively, the *NPRM* seeks comment on whether we should permit inflight mobile wireless service using an alternative authorization method. Alternatives could include: (1) Non-exclusive licenses by which applicants, an airline or other entity, could file to provide airborne wireless services; (2) terrestrial license leases whereby an airline could provide service through lease agreements with mobile wireless service licensees; (3) auctioned ''sky licenses'' covering nationwide or geographic markets that would be assigned pursuant to competitive bidding, or; (4) unlicensed use or license-by-rule whereby eligible entities would be permitted to operate without the Commission issuing individual licenses.

82. We propose to allow mobile communications services on aircraft only if managed by an Airborne Access System (Airborne Access System), which would control the emissions of onboard portable electronic devices by requiring them to remain at or near their lowest transmitting power level and prevent such devices from causing harmful interference to terrestrial networks. We also propose to limit mobile communications services on aircraft to aircraft travelling at altitudes above 3,048 meters (10,000 feet).

B. Legal Basis

83. This action is taken under sections 1, 4(i), 11, and 303(r) and (y), 308, 309, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 161, 303(r), (y), 308, 309, and 332.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

84. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

85. In addition, we have adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. The SBA has approved these small size standards.

86. In the following paragraphs, we further describe and estimate the number and type of small entities that may be affected by the proposals set forth in the *NPRM.* If our proposals are adopted, small airlines that choose to implement mobile communications services on aircraft could be required to modify their existing part 87 licenses and comply with new regulatory requirements, including as to the mobile communications services on aircraft equipment. Such compliance would involve, to varying degrees, the services described below. Under our proposals, an airline would be permitted to negotiate commercial agreements with the entities described in the following. It is possible that an airline could negotiate agreements affecting all communications services listed, or an airline may reach agreements involving only certain categories.

87. The *NPRM* also request comment on whether we should permit inflight mobile wireless services through alternative licensing methodologies. In such cases, any eligible entity (airlines or others) would be permitted to provide mobile wireless services onboard aircraft. In such cases, the authorized parties could be any of the service providers listed below. In addition, any device manufacturers that choose to manufacture devices for mobile communications services on aircraft use will have to ensure that such devices comply with any rules adopted in this proceeding.

88. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* The proposals set forth in the *NPRM,* may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards that encompass entities that could be directly affected by the proposals under consideration. As of 2009, small businesses represented 99.9% of the 27.5 million businesses in the United States, according to the SBA. Additionally, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2007 indicate that there were 89,527 governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,761 entities may qualify as ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

89. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the SBA has recognized wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of Paging and Cellular and Other Wireless Telecommunications. Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For this category census data 2007 show that there were 11,163 establishments that operated for the entire year. Of this total, 10,791 establishments had employment of 999

or fewer employees and 372 had employment of 1000 employees or more. Thus, under this category and the associated small business size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities that may be affected by our proposed action

90. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

91. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to *Trends in Telephone Service* data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, more than half of these entities can be considered small.

92. *Cellular Licenses.* The Cellular Radiotelephone (Cellular) Service is in the 824–849 and 869–894 MHz spectrum range. The most common use of cellular spectrum is mobile voice and data services, including cell phone, text messaging, and Internet.

93. The Commission adopted initial rules governing allocation of spectrum for commercial Cellular service, including the establishment of two channel blocks (Blocks A and B), in 1981. To issue cellular licenses, the FCC divided the U.S. into 734 geographic markets called Cellular Market Areas (CMAs) and divided the 40 megahertz of spectrum into two, 20 megahertz amounts referred to as channel blocks; channel block A and channel block B. A single license for the A block and the B block were made available in each market. The B block of spectrum was awarded to a local wireline carrier that provided landline telephone service in the CMA. The A block was awarded to non-wireline carriers. The wireline/non-wireline distinction for cellular licenses no longer exists.

94. The licensee of the initial license was provided a five-year period to expand coverage within the CMA. The area timely built out during that five-year period became the licensee's initial Cellular Geographic Service Area (CGSA), while any area not built out by the five-year mark was automatically relinquished for re-licensing on a site-by-site basis by the Commission.

95. The Commission established a two phase licensing approach for areas that reverted back to the FCC. Phase I was a one-time process that started as soon as the five-year period ended and allowed parties to file an application to operate a new cellular system or expand an existing cellular system. Phase I licensing is no longer available. Phase II is an on-going process that allows parties to apply for unserved areas after Phase I ended. At this point, all cellular licensing is in Phase II. On June 4, 2002, the Commission completed the auction of three cellular Rural Service Area licenses. Three winning bidders won a total of 3 licenses in this auction. On June 17, 2008, the Commission completed the closed auction of one unserved service area. The auction concluded with one provisionally winning bid for the unserved area totaling $25,002. No bidders in either auction received small business bidding credits.

96. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission initially defined a ''small business'' for C- and F-Block licenses as an entity that has average gross revenues of $40 million or less in the three previous years. For Block F licenses, an additional small business size standard for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that claimed small business status in the first two C Block auctions. A total of 93 bidders that claimed ''small'' and ''very small'' business status won licenses in the first auction of the D, E, and F Blocks. In 1999, the Commission completed a subsequent auction of C, D, E, and F Block licenses. Of the 57 winning bidders in that auction, 48 claimed small business status and won 277 licenses.

97. In 2001, the Commission completed the auction of 422 C and F Block Broadband PCS licenses (Auction 35). Of the 35 winning bidders in that auction, 29 claimed small or very small businesses status. Subsequent events concerning that Auction, including judicial and agency determinations, resulted in only a portion of those C and F Block licenses being available for grant. The Commission completed an auction of 188 C Block licenses and 21 F Block licenses in 2005. Of the 24 winning bidders in that auction, 16 claimed small business status and won 156 licenses. In 2007, the Commission completed an auction of licenses in the A, C, and F Blocks. Of the 12 winning bidders in that auction, five claimed small business status and won 18 licenses. Most recently, in 2008, the Commission completed the auction of C, D, E, and F Block Broadband PCS licenses. Of the eight winning bidders for Broadband PCS licenses in that auction, six claimed small business status and won 14 licenses.

98. *Advanced Wireless Services.* In 2006, the Commission conducted its first auction of Advanced Wireless Services licenses in the 1710–1755 MHz and 2110–2155 MHz bands (AWS–1), designated as Auction 66. For the AWS–1 bands, the Commission has defined a ''small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a ''very small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $15 million. In Auction 66, 31 winning bidders identified themselves as very small businesses and won 142 licenses. Twenty-six of the winning bidders identified themselves as small businesses and won 73 licenses. In a subsequent 2008 auction, the Commission offered 35 AWS–1 licenses. Four winning bidders identifying themselves as very small businesses won 17 licenses, and three winning bidders identifying themselves as a small business won five AWS–1 licenses.

99. *Lower 700 MHz Band Licenses.* The Commission previously adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. The Commission defined a ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding

$40 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. Additionally, the Lower 700 MHz Service had a third category of small business status for Metropolitan/Rural Service Area (MSA/RSA) licenses —''entrepreneur''—which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA approved these small size standards.

100. An auction of 740 licenses was conducted in 2002 (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs). Of the 740 licenses available for auction, 484 licenses were won by 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business, or entrepreneur status and won a total of 329 licenses. A second auction commenced on May 28, 2003, closed on June 13, 2003, and included 256 licenses. Seventeen winning bidders claimed small or very small business status and won 60 licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses. In 2005, the Commission completed an auction of 5 licenses in the lower 700 MHz band (Auction 60). All three winning bidders claimed small business status.

101. In 2007, the Commission reexamined its rules governing the 700 MHz band in the *700 MHz Second Report and Order.* An auction of A, B and E block licenses in the Lower 700 MHz band was held in 2008. Twenty winning bidders claimed small business status. Thirty three winning bidders claimed very small business status.

102. *Upper 700 MHz Band Licenses.* In the *700 MHz Second Report and Order,* the Commission revised its rules regarding Upper 700 MHz band licenses. In 2008, the Commission conducted Auction 73 in which C and D block licenses in the Upper 700 MHz band were available. Three winning bidders claimed very small business status.

103. *Specialized Mobile Radio.* The Commission adopted small business size standards for the purpose of determining eligibility for bidding credits in auctions of Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands. The Commission defined a ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. The Commission defined a ''very small business'' as an entity that together with its affiliates and controlling principals, has average gross revenues not exceeding $3 million for the preceding three years. The SBA has approved these small business size standards for both the 800 MHz and 900 MHz SMR Service. The first 900 MHz SMR auction was completed in 1996. Sixty bidders claiming that they qualified as small businesses under the $15 million size standard won 263 licenses in the 900 MHz SMR band. In 2004, the Commission held a second auction of 900 MHz SMR licenses and three winning bidders identifying themselves as very small businesses won 7 licenses. The auction of 800 MHz SMR licenses for the upper 200 channels was conducted in 1997. Ten bidders claiming that they qualified as small or very small businesses under the $15 million size standard won 38 licenses for the upper 200 channels. A second auction of 800 MHz SMR licenses was conducted in 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses.

104. The auction of the 1,053 800 MHz SMR licenses for the General Category channels was conducted in 2000. Eleven bidders who won 108 licenses for the General Category channels in the 800 MHz SMR band qualified as small or very small businesses. In an auction completed in 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were awarded. Of the 22 winning bidders, 19 claimed small or very small business status and won 129 licenses. Thus, combining all three auctions, 41 winning bidders for geographic licenses in the 800 MHz SMR band claimed to be small businesses.

105. In addition, there are numerous incumbent site-by-site SMR licensees and licensees with extended implementation authorizations in the 800 and 900 MHz bands. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR pursuant to extended implementation authorizations, nor how many of these providers have annual revenues not exceeding $15 million. One firm has over $15 million in revenues. In addition, we do not know how many of these firms have 1500 or fewer employees. We assume, for purposes of this analysis, that all of the remaining existing extended implementation authorizations are held by small entities, as that small business size standard is approved by the SBA.

106. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA approved these definitions.

107. The Commission conducted an auction of geographic area licenses in the WCS service in 1997. In the auction, seven bidders that qualified as very small business entities won licenses, and one bidder that qualified as a small business entity won a license.

108. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for firms in this category, which is: All such firms having 750 or fewer employees. According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for the entire year. Of this total, 912 had employment of less than 500, and an additional 27 had employment of 500 or more. Thus, under this size standard, the majority of firms can be considered small.

109. *Scheduled Passenger Air Transportation.* Air transportation entities, specifically airlines, are implicated only to the extent that the Commission adopts the proposal to permit airlines to provide mobile wireless services. This proposal would give airlines the choice of whether to enable mobile communications services using an Airborne Access System, as well as the specific services to enable. All elements of the Airborne Access Systems and any permissible airborne mobile devices would be subject to applicable FAA and DoT rules and approval procedures.

110. The Census Bureau defines this category as follows: This U.S. industry comprises establishments primarily

engaged in providing air transportation of passengers or passengers and freight over regular routes and on regular schedules. Establishments in this industry operate flights even if partially loaded. Scheduled air passenger carriers including commuter, and helicopter carriers (except scenic and sightseeing) are included in this industry. The SBA has developed a size standard for this industry, which is, all establishments having 1,500 or fewer employees. According to Census Bureau information for 2007, 2,569 establishments operated in that year. Of that number, 1,742 operated with more than 1,000 employees. Based on this data, we estimate that 827, or approximately 31 percent of these establishments, are small. However, it must be understood that since use of the technology necessary to provide mobile communications services on aircraft is permissive rather than compulsory, no data are available to indicate what percentage of all such passenger-carrying airlines establishments will use this technology after their part 87 licenses are modified. Accordingly, the Commission cannot project at this time what percentage of all such licensees will be small passenger air transportation establishments.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

111. Under the Commission's proposal, all Airborne Access System devices must comply with technical and operational requirements, including: Measures that may be taken to limit power include, but are not necessarily limited to, mobile power restrictions, aircraft picocell power restrictions, network control unit power and/or technology limitations, altitude restrictions, and methods to prevent an airborne mobile phone from accessing the ground-based commercial mobile networks.

112. While our proposals would require small airline businesses to modify their existing part 87 licenses if they want to provide mobile communications services on aircraft, airlines are not required to install and operate mobile communications services on aircraft Licensees would be permitted to contract with third parties to install equipment for or offer mobile communications services on aircraft. In addition, modifying existing aircraft fleet or station licenses to include proposed mobile communications services on aircraft use should not impose significant administrative burdens on airlines, and they would have the opportunity for an additional revenue stream. On balance, this would constitute a significant benefit for small business.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

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

114. In the *NPRM,* the Commission proposes that domestic aircraft operators that want to offer mobile communications services on aircraft be required to file for a modification of their existing aircraft station or fleet licenses to include the newly designated use. Also, terrestrial commercial mobile providers would have the option of entering into permissive commercial contracts with airlines to provide access to wireless subscriber services.

115. The *NPRM* specifically solicits alternative licensing proposals, especially those that would not incur significant and undue adverse impacts on small entities. We also specifically solicit comment regarding the affect our proposals may have on small business entities that may lack the financial and technical resources necessary to deploy mobile communications services on aircraft. We seek comment on factors that may minimize any undue impacts on parties, including small and very small businesses, that may be affected by our proposals. For example, we request comment on whether our proposals have a disproportionate financial impact on small businesses, *e.g.* smaller air carriers as compared to larger entities, *e.g.* large airlines. Will our proposals affect the ability of small businesses to compete with larger entities that may more easily afford to deploy an Airborne Access System? If so, we request comment on whether there are factors that could offset such impact. For example, could a small business enter into business agreements with other entities that would make the provision of mobile communications services more feasible for such entities? We seek comment on how to lessen potential burdens on these small carriers, including any factors or arrangements that could make the provision of mobile communications services more practical for small entities.

F. Federal Rules That May Duplicate, Overlap or Conflict With the Proposed Rules

116. 14 CFR 91.21, 121.306, 125.204, and 135.144.

V. Paperwork Reduction Act

117. This *NPRM* seeks comment on potential new or revised information collection requirement(s). If the Commission adopts any new or revised information collection requirement(s), the Commission will publish a notice in the **Federal Register** inviting the public to comment on the requirement, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

VI. Ordering Clauses

118. Accordingly, *it is ordered that,* pursuant to the authority contained in sections 1, 4(i), 11, 303(r), 303(y), 308, 309, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 161, 303(r), 303(y), 308, 309, and 332, this Notice of Proposed Rulemaking is hereby *adopted.*

List of Subjects

47 CFR Parts 22, 24, 27, 87, and 90

Radio.

47 CFR Parts 22, 24, 27, and 90

Communications common carriers.

47 CFR Parts 22, 24, 87, and 90

Communications equipment.

47 CFR Part 87

Air transportation.

47 CFR Part 24

Telecommunications.

47 CFR Part 90

Business and industry.

Federal Communications Commission.

Sheryl D. Todd,

Deputy Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 22, 24, 27, 87, and 90 as follows:

PART 22—PUBLIC MOBILE SERVICES

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

Authority: 47 U.S.C. 154, 222, 303, 309, and 332.

■ 2. Section 22.925 is revised to read as follows:

§ 22.925 Airborne operation of mobile devices

Devices using frequencies licensed under this subpart are prohibited from operating onboard airborne aircraft except as authorized by § 87.205, *et seq.*

PART 24—PERSONAL COMMUNICATIONS SERVICES

■ 3. The authority citation for part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309, and 332.

■ 4. Section 24.3 is revised to read as follows:

§ 24.3 Permissible communications.

PCS licensees may provide any mobile communications service on their assigned spectrum. Fixed services may be provided on a co-primary basis with mobile operations. Broadcasting as defined in the Communications Act is prohibited. Devices using frequencies licensed under this rule part are prohibited from operating onboard airborne aircraft except as authorized by § 87.205, *et seq.*

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 5. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302(a), 303, 307, 309, 332, 336, 337, 1403, 1404, and 1451 unless otherwise noted.

■ 6. Section 27.2 is amended by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 27.2 Permissible communications.

(a) *Miscellaneous wireless communications services.* Except as provided in paragraph (b), (d), or (e) of this section and subject to technical and other rules contained in this part, a licensee in the frequency bands specified in § 27.5 may provide any services for which its frequency bands are allocated, as set forth in the non-Federal Government column of the Table of Allocations in § 2.106 of this chapter (column 5).

* * * * *

(f) Devices using frequencies licensed under this part are prohibited from operating onboard airborne aircraft except as authorized by § 87.205, *et seq.*

PART 87—AVIATION SERVICES

■ 7. The authority citation for part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303 and 307 (e) unless otherwise noted.

■ 8. Add §§ 87.205 through 87.207 and the undesignated center heading ''Airborne Mobile Service'' to Subpart F to read as follows:

Subpart F—Aircraft Stations

Sec.

* * * * *

Airborne Mobile Service

87.205 Scope of service.
87.206 Frequencies.
87.207 Technical requirements.

§ 87.205 Scope of service.

Aircraft Station Licensees shall be permitted to provide mobile broadband service under this rule part subject to the following conditions:

(a) Mobile broadband services shall be authorized only within aircraft cabins;

(b) Mobile broadband service shall be authorized only over the frequencies designated in § 87.206;

(c) Aircraft station licensees must utilize an airborne access system that complies with the technical rules set forth in § 87.207.

(d) The Airborne Mobile Service shall be authorized only at altitudes above 3,048 meters (~10,000) feet. No transmissions shall be authorized over designated frequencies below this altitude.

§ 87.206 Frequencies.

The frequencies 698–757 MHz, 775–787 MHz, SMR spectrum within the bands (806–824 MHz, 851–869 MHz, 896–901 MHz, and 935–940 MHz), 824–849 MHz, 869–894 MHz, 1850–1915 MHz, 1930–1995 MHz, 1710–1755 MHz, 2000–2020 MHz, 2110–2155 MHz, 2180–2200 MHz, 2305–2320 MHz, and 2345–2360 MHz are authorized for airborne in-cabin use consistent with the requirements and § 87.205, *et seq.*

§ 87.207 Technical requirements.

Airborne access systems on licensed aircraft must:

(a) Utilize only frequencies authorized in § 87.206 for the provision of Airborne Mobile Service;

(b) Manage all in-cabin transmissions from mobile devices transmitting on frequencies listed in § 87.206;

(c) Prevent in-cabin mobile devices transmitting on frequencies listed in § 87.206 from operating at power levels sufficient to potentially cause harmful interference to terrestrial mobile networks;

(d) Ensure that each transmitting component of the airborne access system maintains minimal emissions, as measured outside the aircraft cabin, to ensure that airborne operations do not cause harmful interference to terrestrial mobile networks;

(e) Otherwise comply with technical rules applicable to terrestrial base stations operating on the frequencies listed in § 87.206;

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 9. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7), and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156.

■ 10. Section 90.423 is revised to read as follows:

§ 90.423 Airborne operation of mobile devices.

Devices using frequencies licensed under this rule part are prohibited from operating onboard airborne aircraft except as authorized by § 87.205, *et seq.*

[FR Doc. 2013–31203 Filed 1–14–14; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 79, No. 10

Wednesday, January 15, 2014

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.

AFRICAN DEVELOPMENT FOUNDATION

Public Quarterly Meeting of the Board of Directors

AGENCY: United States African Development Foundation.

ACTION: Notice of meeting.

SUMMARY: The US African Development Foundation (USADF) will hold its quarterly meeting of the Board of Directors to discuss the agency's programs and administration.

DATES: The meeting date is Wednesday, January 29th, 2014, 11:00 a.m. to 1:00 p.m.

ADDRESSES: The meeting location is 1400 I Street Northwest, Suite #1000 (Main Conference Room), Washington, DC 20005–2246.

FOR FURTHER INFORMATION CONTACT: Rabayah Akhter, 202–233–8811.

Authority: Public Law 96–533 (22 U.S.C. 290h).

Dated: January 8, 2014.

Shari Berenbach,

President and CEO.

[FR Doc. 2014–00559 Filed 1–14–14; 8:45 am]

BILLING CODE 6117–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Caribou-Targhee National Forest, Westside Ranger District, Idaho Pocatello, Midnight, and Michaud Allotment Management Plan Revisions

AGENCY: Forest Service, USDA.

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

SUMMARY: The USDA Forest Service will prepare an Environmental Impact Statement (EIS) to disclose environmental effects to authorize livestock grazing on all or portions of the Pocatello, Midnight, and Michaud allotments. The project area is within the Portneuf River and American Falls Subbasins. The project area is 10 miles south of Pocatello, Idaho and encompasses 43,200 acres of the National Forest Systems Lands administered by the Westside Ranger District, Caribou-Targhee National Forest.

DATES: ''Comments concerning the scope of the analysis must be received by February 14, 2014. The draft environmental impact statement is expected June 2014 and the final impact statement is expected December 2014.

ADDRESSES: Send written comments to District Ranger Jeffery Hammes, Westside Ranger District, 4350 Cliffs Drive, Pocatello, ID 83204. Comments may also be sent via email to [*comments-intermtn-caribou-targhee-westside@fs.fed.us*>], or via facsimile to 208–236–7555.

FOR FURTHER INFORMATION CONTACT: Heidi Heyrend, Rangeland Management Specialist, 1405 Hollipark Drive, Idaho Falls, Idaho 83401. Telephone: 208 524–7500, email *hheyrend@fs.fed.us.*

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

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of this project is to reauthorize livestock grazing in a manner that maintains and/or moves the area toward Forest Plan objectives and desired conditions. The previous AMPs were completed in 1992. Since that time, the following have occurred: The Forest Plan was revised in 2003; Term Grazing Permits were modified with the Forest Plan Grazing Management riparian and upland forage utilization standards in 2005; and Lower Portneuf Watershed Analysis (LPWA) was completed and included revised management recommendations as well as identified areas not meeting Forest Plan Desired Condition in 2010. There is a need for change from the current management as the allotments are not meeting or moving toward desired conditions in an acceptable timeframe. Specific desired conditions that are not being met include: riparian conditions, and water resource and quality, and recreation.

Proposed Action

The proposed action would reauthorize livestock grazing within the project area and would implement a grazing management strategy that would result in improvement of riparian, water quality, and aquatic resources, and reduces the recreation conflict. The allotment management plan outlines livestock management objectives, practices (including maximum amount of use to meet management objectives), structural and non-structural improvement necessary to meet management objectives, and a monitoring plan to determine whether management objectives are being met and adaptive management actions employed. The proposed actions includes direction for livestock grazing in riparian areas using the Caribou Riparian Grazing Implementation Guide (i.e. site-specific riparian grazing management standards); adjusted structural range improvements (i.e. fences and water development) to reduce the impacts to riparian areas and disperse recreation management prescription; and defines the adaptive management strategies to meet management objectives and practices.

Possible Alternatives

In addition to the proposed action, the no graze alternative was also identified to be analyzed in the environment analysis. ''No grazing'' means that the Forest Service would not reauthorize livestock grazing within the project area (FSH 2209.13–92.31). Permitted livestock grazing would be eliminated on the Pocatello, Midnight, and Michaud Allotments. The livestock grazing permits would be cancelled. In accordance with agency regulations (36 CFR 222.4), grazing would cease two years after the notice of cancellation. Current livestock management would continue during that two-year interval.

Responsible Official

The Westside District Ranger, Jeffery Hammes, will be the responsible official for making the decision and providing direction for the analysis.

Nature of Decision To Be Made

The responsible official will decide whether or not to re authorize livestock grazing within the Pocatello, Midnight,

and Michaud Allotments. If livestock grazing is reauthorized, the responsible official will also decide on basic elements of an allotment management plan: livestock management objectives, practices (including maximum amount of use to meet management objectives), structural and non-structural improvements necessary to meet management objectives, and a monitoring plan to determine whether management objectives are being met and adaptive management measures needed.

Preliminary Issues

Preliminary issues identified include the rate of improvement on riparian and upland vegetation, aquatic resources, and recreation conflict use.

Scoping Process

This notice of intent initiates the official notice and comment period. Previous public scoping for this project occurred in December 2010.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

Dated: January 8, 2014.

Jeffery J. Hammes,

Westside District Ranger.

[FR Doc. 2014–00596 Filed 1–14–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southern Montana Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southern Montana Resource Advisory Committee (RAC) will meet in Columbus, Montana. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to review project submissions, and vote and recommend projects to Forest Supervisor.

DATES: The meeting will be held Tuesday, February 11, 2014, starting at 10:00 a.m.

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

ADDRESSES: The meeting will be held at the Columbus Fire and Rescue Hall, Community Room, 944 E. Pike Avenue, Columbus, Montana.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Custer and Gallatin National Forests Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Mariah Leuschen, RAC Coordinator, by phone at 406–255–1411, or by email at *mdleuschen@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or procedings by contacting the person listed **FOR FURTHER INFORMATION.**

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *www.fs.usda.gov/custer.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by January 29, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Mariah Leuschen, Custer and Gallatin National Forests Supervisor's Office, 1310 Main Street, Billings, Montana 59105; by email to *mdleuschen@fs.fed.us,* or via fascimile to 406–255–1499.

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

Dated: January 8, 2014.

Pam Gardner,

Forest Supervisor (Acting).

[FR Doc. 2014–00561 Filed 1–14–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Monthly Retail Trade Survey

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before March 17, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Karla Allen, U.S. Census Bureau, SSSD HQ–8K183A, 4600 Silver Hill Road, Washington, DC 20233–6500, (301) 763–7208 (or via the Internet at *Karla.L.Allen@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Monthly Retail Trade Survey provides estimates of monthly retail sales, end-of-month merchandise inventories, and quarterly e-commerce sales of retailers in the United States by selected kinds of business. Also, it provides monthly sales of food service establishments. The Bureau of Economic Analysis (BEA) uses this information to prepare the National Income and Products Accounts and to benchmark the annual input-output tables. Statistics provided from the Monthly Retail Trade Survey are used to calculate the gross domestic product (GDP).

Estimates produced from the Monthly Retail Trade Survey are based on a probability sample. The sample design consists of one fixed panel where all cases are requested to report sales, e-commerce sales, and/or inventories each month. The sample is drawn from the Business Register, which contains all Employer Identification Numbers (EINs) and listed establishment locations. There are approximately 10,305 respondents contacted each month for the survey. The sample is updated quarterly to reflect employer business ''births'' and ''deaths''; adding new employer businesses identified in the Business and Professional Classification Survey and deleting firms and EINs when it is determined they are no longer active.

Listed below are the series of retail form numbers and a description of each form:

Series	Description
SM–44(12)S	Non-Department store, Sales only, No E-Commerce.
SM–44(12)SE	Non-Department store, Sales only, w/E-Commerce.
SM–44(12)SS	Non-Department store, Sales only, w/E-Commerce question.
SM–44(12)B	Non-Department store, Sales & Inventories.
SM–44(12)BE	Non-Department store, Sales & Inventories, w/E-Commerce.
SM–44(12)BS	Non-Department store, Sales & Inventories, w/E-Commerce question.
SM–45(12)S	Department store with leased dept., Sales only, No E-Commerce.
SM–45(12)SE	Department store with leased dept., Sales only, w/E-Commerce.
SM–45(12)SS	Department store with leased dept., Sales only, w/E-Commerce question.
SM–45(12)B	Department store with leased dept., Sales & Inventory, No E-Commerce.
SM–45(12)BE	Dept. store with leased dept., Sales & Inventory, w/E-Commerce.
SM–45(12)BS	Dept. store with leased dept., Sales & Inventory, w/E-Commerce question.
SM–72(12)S	Food Service, Sales only, No E-Commerce.
SM–20(12)I	Non-Department and Department Store, Retail Inventories Only.

II. Method of Collection

We will collect this information by mail, FAX, telephone follow-up, and Internet.

III. Data

OMB Control Number: 0607–0717.

Form Numbers: SM–44(12)S, SM–44(12)SE, SM–44(12)SS, SM–44(12)B, SM–44(12)BE, SM–44(12)BS, SM–45(12)S, SM–45(12)SE, SM–45(12)SS, SM–45(12)B, SM–45(12)BE, SM–45(12)BS, SM–72(12)S, and SM–20(12)I.

Type of Review: Regular submission.

Affected Public: Retail and Food Services firms in the United States.

Estimated Number of Respondents: 10,305.

Estimated Time per Response: 7 minutes.

Estimated Total Annual Burden Hours: 14,427.

Estimated Total Annual Cost: The cost to the respondents for fiscal year 2013 is estimated to be $440,745.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 9, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–00514 Filed 1–14–14; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Allocation of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics for Calendar Year 2014

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of allocation of 2014 worsted wool fabric tariff rate quota (TRQ).

SUMMARY: The Department of Commerce (Department) has determined the allocation for Calendar Year 2014 of imports of certain worsted wool fabrics under tariff rate quotas established by Title V of the Trade and Development Act of 2000 (Pub. L. 106–200), as amended by the Trade Act of 2002 (Pub. L. 107–210), the Miscellaneous Trade Act of 2004 (Public law 108–249), and the Pension Protection Act of 2006 (Pub. L. 109–280), and further amended pursuant to the Emergency Economic Stabilization Act of 2008 (Pub. L. 110–343). The companies that are being provided an allocation are listed below.

FOR FURTHER INFORMATION CONTACT: Laurie Mease, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–2043.

SUPPLEMENTARY INFORMATION:

Background

Title V of the Trade and Development Act of 2000, as amended by the Trade Act of 2002, the Miscellaneous Trade Act of 2004, the Pension Protection Act of 2006, and the Emergency Economic Stabilization Act of 2008, creates two tariff rate quotas, providing for temporary reductions in the import duties on two categories of worsted wool fabrics suitable for use in making

suits, suit-type jackets, or trousers. For worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the United States (HTSUS) heading 9902.51.11), the reduction in duty is limited to 5,500,000 square meters in 2014. For worsted wool fabric with average fiber diameters of 18.5 microns or less (HTSUS heading 9902.51.15), the reduction is limited to 5,000,000 square meters in 2014. The Miscellaneous Trade Act of 2004 requires the President to ensure that such fabrics are fairly allocated to persons (including firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers in the United States and who apply for an allocation based on the amount of such suits cut and sewn during the prior calendar year. Presidential Proclamation 7383, of December 1, 2000, authorized the Secretary of Commerce to allocate the quantity of worsted wool fabric imports under the tariff rate quotas.

The Miscellaneous Trade Act also authorized Commerce to allocate a new HTS category, HTS 9902.51.16. This HTS refers to worsted wool fabric with average fiber diameter of 18.5 microns or less. The amendment further provides that HTS 9902.51.16 is for the benefit of persons (including firms, corporations, or other legal entities) who weave worsted wool fabric in the United States. For HTS 9902.51.16, the reduction in duty is limited to 2,000,000 square meters in 2014.

On January 22, 2001 the Department published interim regulations establishing procedures for applying for, and determining, such allocations (66 FR 6459, 15 CFR 335). These interim regulations were adopted, without change, as a final rule published on October 24, 2005 (70 FR 61363). On September 13, 2013, the Department published notices in the **Federal Register** (78 FR 56657–58) soliciting applications for an allocation of the 2014 tariff rate quotas with a closing date of October 15, 2013. The Department received timely applications for the HTS 9902.51.11 tariff rate quota from 11 firms. The Department received timely applications for the HTS 9902.51.15 tariff rate quota from 16 firms. The Department received a timely application for the HTS 9902.51.16 tariff rate quota from 1 firm. All applicants were determined eligible for an allocation. Most applicants submitted data on a business confidential basis. As allocations to firms were determined on the basis of this data, the Department considers individual firm allocations to be business confidential.

Firms That Received Allocations

HTS 9902.51.11, fabrics, of worsted wool, with average fiber diameter greater than 18.5 micron, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (provided for in subheading 5112.11.60 and 5112.19.95). Amount allocated: 5,500,000 square meters.

Companies Receiving Allocation

Adrian Jules Ltd.—Rochester, NY
Gil Sewing Corp.—Chicago, IL
HMX, LLC—New York, NY
Hugo Boss Fashions, Inc.—Brooklyn, OH
J.A. Apparel Corp.—New York, NY
John H. Daniel Co.—Knoxville, TN
Miller's Oath—New York, NY
Saint Laurie Ltd.—New York, NY
Tom James Co.—Franklin, TN
Tovi Tovi Bespoke DBA Primo—Long Island City, NY
Warren Sewell Clothing Co., Inc.—Bremen, GA

HTS 9902.51.15, fabrics, of worsted wool, with average fiber diameter of 18.5 micron or less, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (provided for in subheading 5112.11.30 and 5112.19.60). Amount allocated: 5,000,000 square meters.

Companies Receiving Allocation

Adrian Jules Ltd.—Rochester, NY
Brooks Brothers Group—New York, NY
Elevee Custom Clothing—Van Nuys, CA
Gil Sewing Corp.—Chicago, IL
HMX, LLC—New York, NY
Hugo Boss Fashions, Inc.—Brooklyn, OH
J.A. Apparel Corp.—New York, NY
John H. Daniel Co.—Knoxville, TN
Martin Greenfield Clothiers—Brooklyn, NY
Miller's Oath—New York, NY
Saint Laurie Ltd.—New York, NY
Shelton and Company—East Rutherford, NJ
Southwick Apparel LLC—Haverhill, MA
Tom James Co.—Franklin, TN
Tovi Tovi Bespoke DBA Primo—Long Island City, NY
Warren Sewell Clothing Co., Inc.—Bremen, GA

HTS 9902.51.16, fabrics, of worsted wool, with average fiber diameter of 18.5 micron or less, certified by the importer as suitable for use in making men's and boy's suits (provided for in subheading 5112.11.30 and 5112.19.60). Amount allocated: 2,000,000 square meters.

Companies Receiving Allocation

Warren Corporation—Stafford Springs, CT

Dated: January 9, 2014.

Kim Glas,

Deputy Assistant Secretary for Textiles, Consumer Goods, and Materials.

[FR Doc. 2014–00618 Filed 1–14–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–968]

Aluminum Extrusions From the People's Republic of China: Notice of Partial Rescission of Countervailing Duty Administrative Review

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

DATES: Effective January 15, 2014.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Brooke Kennedy, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4793 or (202) 482–3818, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2013, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the countervailing duty (CVD) order on aluminum extrusions from the People's Republic of China (PRC) for the period January 1, 2012, through December 31, 2012.[1] On May 31, 2013, we received from Electrolux North America, Inc., Electrolux Home Products, Inc., and Electrolux Major Appliances (collectively, Electrolux), a domestic interested party, a request that the Department conduct an administrative review of Hong Kong Gree Electric Appliances Sales Limited (Hong Kong Gree).[2] On June 28, 2013, the

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 78 FR 25420, 25424 (May 1, 2013).

[2] *See* Letter from Crowell & Moring on behalf of Electrolux regarding ''Request for Administrative Review'' (May 31, 2013). This public document and all other public documents and public versions of business proprietary documents for this administrative review are on file electronically via IA ACCESS.

Department published a notice of initiation of administrative review with respect to 153 companies.[3] On August 27, 2013, Hong Kong Gree notified the Department that it had no shipments of subject merchandise to the United States during the period of review (POR).[4] On November 8, 2013, we published a notice of intent to rescind this administrative review with respect to Hong Kong Gree, and invited interested parties to comment.[5] We received no comments, and have determined that the review of Hong Kong Gree should be rescinded.

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise to the United States by that producer. Hong Kong Gree submitted a letter to the Department certifying that it had no shipments of subject merchandise to the United States during the POR. No parties commented on Hong Kong Gree's claim of no shipments.

Previously, on August 2, 2013, we released the results of a U.S. Customs and Border Protection (CBP) data query, which indicated that Hong Kong Gree had no suspended entries of subject merchandise during the POR.[6] After receipt of Hong Kong Gree's no shipment certification, we sent a ''no shipments inquiry'' message to CBP, which posted the message on September 20, 2013.[7] The Department did not receive any information from CBP contrary to Hong Kong Gree's claim of no shipments of subject merchandise to the United States during the POR.

Based on our analysis of all the information on the record, we determine that Hong Kong Gree had no shipments or entries of subject merchandise to the United States during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3), and consistent with our practice,[8] we are rescinding the review for Hong Kong Gree. We will continue this administrative review with respect to those companies for which a review was requested and not subsequently withdrawn.[9]

We are issuing this notice in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: January 10, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–00637 Filed 1–14–14; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 38924 (June 28, 2013).

[4] *See* Letter from Hong Kong Gree regarding ''No Shipment Certification'' (August 27, 2013).

[5] *See* Aluminum Extrusions from the People's Republic of China: Intent to Rescind 2012 Countervailing Duty Administrative Review, in Part, 78 FR 67115 (November 8, 2013).

[6] *See* Department Memorandum regarding ''Analysis of CBP Data and Identification of Companies to Receive Q&V Questionnaires'' (August 2, 2013).

[7] *See* Message number 3263301 available at *http://addcvd.cbp.gov* and also IA ACCESS.

[8] *See, e.g., Polyethylene Terephthalate Film, Sheet and Strip from India: Rescission of Countervailing Duty Administrative Review,* 77 FR 19634 (April 2, 2012); *see also Welded Carbon Steel Standard Pipe and Tube from Turkey: Notice of Rescission of Countervailing Duty Administrative Review, In Part,* 74 FR 47921 (September 18, 2009).

[9] *See Aluminum Extrusions from the People's Republic of China: Notice of Partial Rescission of Countervailing Duty Administrative Review,* 78 FR 67116 (November 8, 2013).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD079

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Tilefish Advisory Panel will hold a public meeting.

DATES: The meeting will be held on February 4, 2014, from 9 a.m. until noon.

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option. Details on webinar registration and telephone-only connection details are available at: *http://www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to create a fishery performance report by the Council's Golden Tilefish Advisory Panel (AP). The intent of this report is to facilitate a venue for structured input from the Advisory Panel members for the Golden Tilefish specifications process, including recommendations by the Council and its Scientific and Statistical Committee (SSC).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office (302) 526–5251 at least 5 days prior to the meeting date.

Dated: January 10, 2014.

William D. Chappell,

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

[FR Doc. 2014–00608 Filed 1–14–14; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2014–0001]

Consumer Advisory Board and Councils Solicitation of Applications for Membership

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice.

SUMMARY: Pursuant to the authorities given to the Director of the Consumer Financial Protection Bureau (''Bureau'') under the Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') Director Richard Cordray invites the public to apply for membership for appointment to its Consumer Advisory Board (the ''Board''), Community Bank Advisory Council, and Credit Union Advisory Council. Membership of the Board and Advisory Councils includes representatives of consumers, communities, the financial services industry and academics. Appointments to the Advisory Board are typically for

three years and appointments to the Advisory Councils are typically for two years. However, the Director may amend the respective Board and Council charters from time to time during the charter terms as the Director deems necessary to accomplish the purpose of the Board and Councils. The Bureau expects to announce the selection of new members in August 2014.

DATES: Complete application packets received on or before February 28, 2014 will be given consideration for membership on the Board and Councils.

ADDRESSES: Complete application packets must include a résumé for each applicant, a completed application, and a letter of recommendation from a third party. The appropriate forms can be accessed at: *consumerfinance.gov.*

If electronic submission is not feasible, the completed application packet can be mailed to Christopher Banks, Consumer Financial Protection Bureau, 1700 G Street NW., 6108 E–A, Washington, DC 20552.

All applications for membership on the Board and Advisory Council should be sent:

- *Electronically: CFPB_BoardandCouncilApps@cfpb.gov*. We strongly encourage electronic submissions.
- *Mail:* Christopher Banks, Consumer Financial Protection Bureau, 1700 G Street NW., 6111 E–B, Washington, DC 20552. Submissions must be postmarked on or before 5:00 p.m. eastern standard time on February 28, 2014.
- *Hand Delivery/Courier in Lieu of Mail:* Christopher Banks, Consumer Financial Protection Bureau, 1700 G Street NW., 6111 E–B, Washington, DC 20552. Submissions must be received on or before 5:00 p.m. eastern standard time on February 28, 2014.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Christopher Banks, Consumer Financial Protection Bureau, (202) 754–0325.

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau is charged with regulating ''the offering and provision of consumer financial products or services under the Federal consumer financial laws,'' so as to ensure that ''all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.'' Pursuant to Section 1021(c) of the Wall Street Reform and Consumer Protection Act, Public Law 111–203 (''Dodd-Frank Act''), the Bureau's primary functions are:

1. Conducting financial education programs;
2. Collecting, investigating, and responding to consumer complaints;
3. Collecting, researching, monitoring, and publishing information relevant to the function of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets;
4. Supervising persons covered under the Dodd-Frank Act for compliance with Federal consumer financial law, and taking appropriate enforcement action to address violations of Federal consumer financial law;
5. Issuing rules, orders, and guidance implementing Federal consumer financial law; and
6. Performing such support activities as may be needed or useful to facilitate the other functions of the Bureau.

As described in more detail below, Section 1014 of the Dodd-Frank Act calls for the Director of the Bureau to establish a Consumer Advisory Board to advise and consult with the Bureau regarding its functions, and to provide information on emerging trends and practices in the consumer financial markets.

III. Qualifications

Pursuant to Section 1014(b) of the Dodd-Frank Act, in appointing members to the Board, ''the Director shall seek to assemble experts in consumer protection, financial services, community development, fair lending and civil rights, and consumer financial products or services and representatives of depository institutions that primarily serve underserved communities, and representatives of communities that have been significantly impacted by higher-priced mortgage loans, and seek representation of the interests of covered persons and consumers, without regard to party affiliation.'' The determinants of ''expertise'' shall depend, in part, on the constituency, interests, or industry sector the nominee seeks to represent, and where appropriate, shall include significant experience as a direct service provider to consumers.

Pursuant to Section 5 of the Community Bank Advisory Council Charter, in appointing members to the Advisory Council the Director shall seek to assemble experts in consumer protection, financial services, community development, fair lending and civil rights, and consumer financial products or services and representatives of community banks that primarily serve underserved communities, and representatives of communities that have been significantly impacted by higher-priced mortgage loans, and shall strive to have diversity in terms of points of view. Only current bank or thrift employees (CEOs, compliance officers, government relations officials, etc.) will be considered for membership. Membership is limited to employees of banks and thrifts with total assets of $10 billion or less that are not affiliates of depository institutions or credit unions with total assets of more than $10 billion.

Pursuant to section 5 of the Credit Union Advisory Council Charter, in appointing members to the Advisory Council the Director shall seek to assemble experts in consumer protection, financial services, community development, fair lending and civil rights, and consumer financial products or services and representatives of credit unions that primarily serve underserved communities, and representatives of communities that have been significantly impacted by higher-priced mortgage loans, and shall strive to have diversity in terms of points of view. Only current credit union employees (CEOs, compliance officers, government relations officials, etc.) will be considered for membership. Membership is limited to employees of credit unions with total assets of $10 billion or less that are not affiliates of depository institutions or credit unions with total assets of more than $10 billion.

The Bureau has a special interest in ensuring that women, minority groups, and individuals with disabilities are adequately represented on the Board and Councils, and therefore, encourages applications from qualified candidates from these groups. The Bureau also has a special interest in establishing a Board that is represented by a diversity of viewpoints and constituencies, and therefore encourages applications from qualified candidates who:

1. Represent the United States' geographic diversity; and
2. Represent the interests of special populations identified in the Dodd-Frank Act, including service members, older Americans, students, and traditionally underserved consumers and communities.

IV. Application Procedures

Any interested person may apply for membership on the Board or Advisory Council.

A complete application packet must include:

1. A recommendation letter from a third party describing the applicant's

interests and qualifications to serve on the Board or Council;

2. A complete résumé or curriculum vitae for the applicant; and

3. A complete application.

To evaluate potential sources of conflicts of interest, the Bureau will ask potential candidates to provide information related to financial holdings and/or professional affiliations, and to allow the Bureau to perform a background check. The Bureau will not review applications and will not answer questions from internal or external parties regarding applications until the application period has closed.

The Bureau will not entertain applications of federally registered lobbyists and individuals who have been convicted of a felony for a position on the Board and Councils.

Only complete applications will be given consideration for review of membership on the Board and Councils.

Dated: January 9, 2014.

Christopher D'Angelo,

Chief of Staff, Bureau of Consumer Financial Protection.

[FR Doc. 2014–00635 Filed 1–14–14; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Regents, Uniformed Services University of the Health Sciences; Notice of Federal Advisory Committee Meeting

AGENCY: Uniformed Services University of the Health Sciences (USU), DoD.

ACTION: Quarterly meeting notice.

SUMMARY: The Department of Defense is publishing this notice to announce the following meeting of the Board of Regents, Uniformed Services University of the Health Sciences (''the Board''). This meeting will be partially closed to the public.

DATES: Tuesday, February 4, 2014, from 8:00 a.m. to 11:45 a.m. (Open Session) and 11:45 a.m. to 12:45 p.m. (Closed Session).

ADDRESSES: Val G. Hemming Simulation Center, 2460 Linden Lane, Bldg 163, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: S. Leeann Ori, Designated Federal Officer, 4301 Jones Bridge Road, D3011, Bethesda, Maryland 20814; telephone 301–295–3066; email *sherri.ori@usuhs.edu.*

SUPPLEMENTARY INFORMATION: This meeting notice is being published under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to review the operations of USU, particularly the academic affairs, and provide advice to the USU President and the Assistant Secretary of Defense for Health Affairs. These actions are necessary for the University to pursue its mission, which is to provide outstanding healthcare practitioners and scientists to the uniformed services, and to obtain institutional accreditation.

Agenda: The actions that will take place include the approval of minutes from the Board of Regents Meeting held on October 23, 2013; recommendations regarding the approval of faculty appointments and promotions; recommendations regarding the awarding of master's and doctoral degrees in the biomedical sciences and public health; and the approval of awards and honors. The USU President will provide a report on recent actions affecting academic and operations of the University; the Vice President for Research will provide a semiannual report on research activities and funding for research at the University; the Vice President for Affiliations and International Affairs will report on the University's international affiliations; USU officials will provide various academic and administrative information; the School of Medicine will provide a briefing on a long-term career study which tracks the careers of graduates of the program; and the Veteran Metrics Initiative will provide a brief on their organization. A closed session will be held to discuss personnel actions and active investigations.

Meeting Accessibility: Pursuant to Federal statute and regulations (5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165) and the availability of space, the meeting is open to the public from 8:00 a.m. to 11:45 a.m. Seating is on a first-come basis. Members of the public wishing to attend the meeting should contact S. Leeann Ori at the address and phone number noted in the **FOR FURTHER INFORMATION CONTACT** section.

Pursuant to 5 U.S.C. 552b(c)(2, 5–7) the Department of Defense has determined that the portion of the meeting from 11:45 a.m. to 12:45 p.m. shall be closed to the public. The Acting Under Secretary of Defense (Personnel and Readiness), in consultation with the Office of the DoD General Counsel, has determined in writing that a portion of the committee's meeting will be closed as the discussion will disclose sensitive personnel information, will include matters that relate solely to the internal personnel rules and practices of the agency, will involve accusing a person of a crime or censuring an individual, and may disclose investigatory records compiled for law enforcement purposes.

Written Statements: Interested persons may submit a written statement for consideration by the Board. Individuals submitting a written statement must submit their statement to the Designated Federal Officer at the address listed above in the **FOR FURTHER INFORMATION CONTACT** seection. If such statement is not received at least 5 calendar days prior to the meeting, it may not be provided to or considered by the Board of Regents until a later date. The Designated Federal Officer will compile all timely submissions with the Board's Chairman and ensure such submissions are provided to Board Members before the meeting.

Dated: January 9, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–00488 Filed 1–14–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0003]

Agency Information Collection Activities; Comment Request; Study of Clinical Practice in Traditional Teacher Preparation Programs in Missouri

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before March 17, 2014.

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–2014–ICCD–0003 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: For questions related to collection activities or burden, please call Kathy Axt, 540–776–7742 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here. We will ONLY accept comments in this mailbox when the regulations.gov site is not available to the public for any reason.

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: Study of Clinical Practice in Traditional Teacher Preparation Programs in Missouri.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 2,800.

Total Estimated Number of Annual Burden Hours: 1,176.

Abstract: This study will collect information about the clinical practice (student teaching and field experience) components of traditional teacher preparation programs (TPPs). The study will use a survey of first-year public school teachers in Missouri to collect information about: (1) the characteristics of clinical practice in traditional TPPs completed by first-year teachers; and (2) how clinical practice in traditional TPPs varies among certification tracks completed by first-year teachers. The study will be implemented during the 2014–15 school year.

Dated: January 8, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–00459 Filed 1–14–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0133]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Survey of Principals of Rural Schools Receiving School Improvement Grants and Using the Transformation

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before February 14, 2014.

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–0133 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, Mailstop L–OM–2–2E319, Room 2E107, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For questions related to collection activities or burden, please call Kathy Axt, 540–776–7742 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here. We will ONLY accept comments in this mailbox when the regulations.gov site is not available to the public for any reason.

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: Survey of Principals of Rural Schools Receiving School Improvement Grants and Using the Transformation.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 221.

Total Estimated Number of Annual Burden Hours: 58.

Abstract: This study collects survey data from principals of schools that received federal School Improvement Grants (SIGs) in cohort 1 and implemented the school transformation model. Rural schools and districts often face steep challenges when trying to implement the kinds of staff replacement and on-site professional development practices required in the transformation model. By examining the implementation of the SIG transformation model in challenging rural settings, the study will produce findings that can help policymakers, rural schools, and their partners plan for school improvement. Our study will do this in two ways: (1) By asking principals to specify the extent to which the transformation activities were

implemented and the challenges to implementation, and (2) by identifying which activities were supported by technical assistance providers and how sufficient principals found this support.

Dated: January 9, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–00572 Filed 1–14–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Credit Enhancement for Charter School Facilities Program

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice.

Overview Information: Credit Enhancement for Charter School Facilities Program. Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.354A.

DATES: Applications Available: January 15, 2014.

Date of Pre-Application Webinar (all times are Washington, DC time): Wednesday, January 29, 2014, at 2:00 p.m., Washington, DC time.

Deadline for Transmittal of Applications: March 3, 2014.

Deadline for Intergovernmental Review: April 30, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program provides grants to eligible entities to permit them to enhance the credit of charter schools so that they can access private-sector and other non-Federal capital in order to acquire, construct, and renovate facilities at a reasonable cost. Grant projects awarded under this program will be of sufficient size, scope, and quality to enable the grantees to implement effective strategies for reaching that objective.

Priorities: This competition includes one competitive preference priority and one invitational priority.

Competitive Preference Priority: In accordance with 34 CFR 75.105(b)(2)(ii), this priority is from the regulations for this program (34 CFR 225.12).

For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 15 points to an application, depending on how well the application meets this priority.

This priority is:

The capacity of charter schools to offer public school choice in those communities with the greatest need for school choice based on—

(1) The extent to which the applicant would target services to geographic areas in which a large proportion or number of public schools have been identified for improvement, corrective action, or restructuring under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended.

Note: In order to receive competitive preference points under this priority, applicants serving charter schools in States operating under ESEA Flexibility that have opted to waive the requirement in ESEA section 1116(b) for local educational agencies (LEAs) to identify for improvement, corrective action, or restructuring, as appropriate, their Title I schools that fail to make adequate yearly progress (AYP) for two or more consecutive years should target services to geographic areas in which a large proportion or number of public schools have been identified as priority or focus schools, or belonging to a subset of other Title I schools specifically identified as low-achieving under the State's approved ESEA flexibility request (see the June 7, 2012, ''ESEA Flexibility'' document at *http://www.ed.gov/esea/flexibility).*

(2) The extent to which the applicant would target services to geographic areas in which a large proportion of students perform below proficient on State academic assessments; and

(3) The extent to which the applicant would target services to communities with large proportions of students from low-income families.

Invitational Priority: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is: The applicant proposes a grant project that demonstrates its ability to partner with new actors and/or leverage new sources of capital and untapped non-Federal programs in order to finance charter school facilities.

Definitions: The following definitions are from 34 CFR 77.1(c):

Ambitious means promoting continued, meaningful improvement for program participants or for other individuals or entities affected by the grant, or representing a significant advancement in the field of education research, practices, or methodologies. When used to describe a performance target, whether a performance target is ambitious depends upon the context of the relevant performance measure and the baseline for that measure.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (i.e., the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance.

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project.

Relevant outcome means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve; consistent with the specific goals of a program.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

Program Authority: 20 U.S.C. 7223–7223j.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 225.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration's budget request for FY 2014 does not include funds for this program. However, we are inviting applications at this time to allow enough time to complete the grant process if Congress appropriates funds for the program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY

2015 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $5,000,000 to $8,000,000.

Estimated Average Size of Awards: $7,500,000.

Maximum Award: We will not award a grant for more than $8,000,000 for a grant project. The Assistant Secretary for the Office of Innovation and Improvement may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: From the start date indicated on the grant award document until the Federal funds and earnings on those funds have been expended for the grant purposes or until financing facilitated by the grant has been retired, whichever is later.

III. Eligibility Information

1. *Eligible Applicants:* (a) A public entity, such as a State or local governmental entity; (b) A private, nonprofit entity; or (c) A consortium of entities described in (a) and (b).

Note: Under 20 U.S.C. 7223a(b)(2), the Secretary will make, if possible, at least one award in each of the three categories of eligible applicants.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other:* The charter schools that a grantee selects to benefit from this program must meet the definition of a ''charter school,'' in section 5210(1) of the ESEA, as amended.

IV. Application and Submission Information

1. *Address to Request Application Package:* Kristin Lundholm, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W221, Washington, DC 20202–5970. Telephone: (202) 205–4352 or by email: *Kristin.Lundholm@ed.gov.*

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

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2. a. *Content and Form of Application Submission:* Each Credit Enhancement for Charter School Facilities program application must include the following specific elements:

(a) A statement identifying the activities proposed to be undertaken with grant funds (the ''grant project''), including a description of how the applicant will determine which charter schools will receive assistance and how much and what types of assistance these schools will receive.

(b) A description of the involvement of charter schools in the application's development and in the design of the proposed grant project.

(c) A description of the applicant's expertise in capital markets financing. (Consortium applicants must provide this information for each of the participating organizations.)

(d) A description of how the proposed grant project will leverage the maximum amount of private-sector and other non-Federal capital relative to the amount of funding used from the Credit Enhancement for Charter School Facilities program and how the proposed grant project will otherwise enhance credit available to charter schools.

(e) A description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought.

(f) In the case of an application submitted by a State governmental entity, a description of current and planned State funding actions, including other forms of financial assistance that ensure that charter schools within the State receive the funding they need to have adequate facilities.

Additional requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. Applicants are encouraged to limit their application narrative to no more than 40 pages (not including the required forms and tables), 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.

Furthermore, applicants are strongly encouraged to include a table of contents that specifies where each required part of the application is located.

Note: The applicant should review the *Performance Measures* section of this notice for information on the requirements for developing project-specific performance measures and targets consistent with the objectives of the program.

b. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the Credit Enhancement for Charter School Facilities Program, an application may include business information that the applicant considers proprietary. The Department's regulations define ''business information'' in 34 CFR 5.11.

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under ''Other Attachment Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Submission Dates and Times:*

Applications Available: January 15, 2014.

Date of Pre-Application Webinar: The Department will hold a pre-application Webinar for prospective applicants on the following date (all times are Washington, DC time): Wednesday, January 29, 2014, at 2:00PM, Washington, DC time.

Individuals interested in attending the Webinar are encouraged to pre-register by emailing their name, organization, contact information, and preferred Webinar date and time with the subject heading CREDIT ENHANCEMENT PRE-APPLICATION MEETING to *Charterschools@ed.gov.* There is no registration fee for attending this Webinar.

For further information about the pre-application Webinar, contact Kristin Lundholm, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W221, Washington, DC 20202–5970. Telephone: (202) 205–4352 or by email: *Kristin.Lundholm@ed.gov.*

Deadline for Transmittal of Applications: March 3, 2014.

Applications for grants under this program must be submitted electronically using the Grants.Gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, 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.

Deadline for Intergovernmental Review: April 30, 2014.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* (a) *Reserve accounts.* Grant recipients, in accordance with State and local law, must deposit the grant funds they receive under this program (other than funds used for administrative costs) in a reserve account established and maintained by the grantee for this purpose. Amounts deposited in such account shall be used by the grantee for one or more of the following purposes in order to assist charter schools in accessing private-sector and other non-Federal capital:

(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein.

(2) Guaranteeing and insuring leases of personal and real property.

(3) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

(4) Facilitating the issuance of bonds by charter schools or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (such as the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

Funds received under this program and deposited in the reserve account must be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities. Any earnings on funds, including fees, received under this program must be deposited in the reserve account and be used in accordance with the requirements of this program.

(b) *Charter school objectives.* An eligible entity receiving a grant under this program must use the funds deposited in the reserve account to assist charter schools in accessing capital to accomplish one or both of the following objectives:

(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (which may be an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

(c) *Other.* Grantees must ensure that all costs incurred using funds from the reserve account are reasonable. The full faith and credit of the United States are not pledged to the payment of funds under such obligation. In the event of a default on any debt or other obligation, the United States has no liability to cover the cost of the default.

Applicants that are selected to receive an award must enter into a written Performance Agreement with the Department prior to drawing down funds, unless the grantee receives written permission from the Department in the interim to draw down a specific limited amount of funds. Grantees must maintain and enforce standards of conduct governing the performance of their employees, officers, directors, trustees, and agents engaged in the selection, award, and administration of contracts or agreements related to this grant. The standards of conduct must mandate disinterested decision-making.

A grantee may use not more than 0.25 percent (one quarter of one percent) of the grant funds for the administrative costs of the grant.

The Secretary, in accordance with chapter 37 of title 31, United States Code, will collect all or a portion of the funds in the reserve account established with grant funds (including any earnings on those funds) if the Secretary determines that the grantee has permanently ceased to use all or a portion of the funds in such account to accomplish the purposes described in the authorizing statute and the Performance Agreement or, if not earlier than two years after the date on which the entity first receives these funds, the entity has failed to make substantial progress in undertaking the grant project.

(d) We specify some unallowable costs in 34 CFR 225.21. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section in 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-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *http://www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.* Applications for grants under the Credit Enhancement for Charter School Facilities Program, CFDA number 84.354A, 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 Credit Enhancement for Charter School Facilities 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 84.326, not 84.326A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this 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.
- 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 (an ED-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 prevent 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: Kristin Lundholm, U.S. Department of Education, 400 Maryland Avenue SW., room 4W221, Washington, DC 20202–5970.

FAX: (202) 250–5630.

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 84.354A), 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 84.354A), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are in 34 CFR 225.11 and are listed in following paragraphs. The maximum score for all of the selection criteria is 100 points. The maximum score for each criterion is indicated in parentheses. Each criterion also includes the factors that the reviewers will consider to determine how well an application meets the criterion. We encourage applicants to make explicit connections to the selection criteria and factors in their applications.

A. *Quality of project design and significance.* (35 points)

In determining the quality of project design and significance, the Secretary considers—

(1) The extent to which the grant proposal would provide financing to charter schools at better rates and terms than they can receive absent assistance through the program;

(2) The extent to which the project goals, objectives, and timeline are clearly specified, measurable, and appropriate for the purpose of the program;

(3) The extent to which the project implementation plan and activities, including the partnerships established, are likely to achieve measurable objectives that further the purposes of the program;

(4) The extent to which the project is likely to produce results that are replicable;

(5) The extent to which the project will use appropriate criteria for selecting charter schools for assistance and for determining the type and amount of assistance to be given;

(6) The extent to which the proposed activities will leverage private or public-sector funding and increase the number and variety of charter schools assisted in meeting their facilities needs more than would be accomplished absent the program;

(7) The extent to which the project will serve charter schools in States with strong charter laws, consistent with the criteria for such laws in section 5202(e)(3) of the Elementary and Secondary Education Act of 1965;

(8) The extent to which the requested grant amount and the project costs are reasonable in relation to the objectives, design, and potential significance of the project; and

(9) The extent to which the proposed project is supported by strong theory (as defined in 34 CFR 77.1(c)).

Note: The applicant should review the *Performance Measures* section of this notice for information on the requirements for developing project-specific performance measures and targets consistent with the objectives of the program.

B. *Quality of project services.* (15 points)

In determining the quality of the project services, the Secretary considers—

(1) The extent to which the services to be provided by the project reflect the identified needs of the charter schools to be served;

(2) The extent to which charter schools and chartering agencies were involved in the design of, and demonstrate support for, the project;

(3) The extent to which the technical assistance and other services to be provided by the proposed grant project involve the use of cost-effective strategies for increasing charter schools' access to facilities financing, including the reasonableness of fees and lending terms; and

(4) The extent to which the services to be provided by the proposed grant project are focused on assisting charter schools with a likelihood of success and the greatest demonstrated need for assistance under the program.

C. *Capacity.* (35 points)

In determining an applicant's business and organizational capacity to carry out the project, the Secretary considers—

(1) The amount and quality of experience of the applicant in carrying out the activities it proposes to undertake in its application, such as enhancing the credit on debt issuances, guaranteeing leases, and facilitating financing;

(2) The applicant's financial stability;

(3) The ability of the applicant to protect against unwarranted risk in its loan underwriting, portfolio monitoring, and financial management;

(4) The applicant's expertise in education to evaluate the likelihood of success of a charter school;

(5) The ability of the applicant to prevent conflicts of interest, including conflicts of interest by employees and members of the board of directors in a decision-making role;

(6) If the applicant has co-applicants (consortium members), partners, or other grant project participants, the specific resources to be contributed by each co-applicant (consortium member), partner, or other grant project participant to the implementation and success of the grant project;

(7) For State governmental entities, the extent to which steps have been or will be taken to ensure that charter schools within the State receive the funding needed to obtain adequate facilities; and

(8) For previous grantees under the charter school facilities programs, their performance in implementing these grants.

D. *Quality of project personnel.* (15 points)

In determining the quality of project personnel, the Secretary considers—

(1) The qualifications of project personnel, including relevant training and experience, of the project manager and other members of the project team, including consultants or subcontractors; and

(2) The staffing plan for the grant project.

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:*

(a) Program Performance Measures. The performance measures for this program are: (1) The amount of funding grantees leverage for charter schools to acquire, construct, and renovate school facilities and (2) the number of charter schools served. Grantees must provide this information as part of their annual performance reports.

(b) Project-Specific Performance Measures. Applicants must propose project-specific performance measures and performance targets consistent with the objectives of the project and program. Applications must provide the following information as directed under 34 CFR 75.110(b):

(1) Project Performance Measures. How each proposed project-specific performance measure would accurately measure the performance of the project and how the proposed project-specific performance measure would be consistent with the performance measures established for the program funding the competition.

(2) Project Performance Targets. Why each proposed performance target is ambitious yet achievable compared to the baseline for the performance measure and when, during the project period, the applicant would meet the performance target(s).

Note: The Secretary encourages the applicant to consider measures and targets

tied to their grant activities (for instance, if applicants are using eligibility for free and reduced price lunch to measure the number of low-income families served by the project, the applicant could provide a percentage for students qualifying for free and reduce lunch), during the grant period. The measures should be sufficient to gauge the progress throughout the grant period, and show results by the end of the grant period.

(3) The applicant must also describe in the application:

(i) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data, and

(ii) The applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

Note: If the applicant does not have experience with collection and reporting of performance data through other projects or research, they should provide other evidence of their capacity to successfully carry out data collection and reporting for their proposed project.

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: Kristin Lundholm, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W221, Washington, DC 20202–5970. Telephone: (202) 205–4352 or by email: *Kristin.Lundholm@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

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

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or 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: January 10, 2014.

Nadya Chinoy Dabby,

Associate Assistant Deputy Secretary for the Office of Innovation and Improvement, delegated the authority to perform the functions and duties of the Assistant Deputy Secretary.

[FR Doc. 2014–00648 Filed 1–14–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Federal Perkins Loan, Federal Work Study, and Federal Supplemental Educational Opportunity Grant programs; 2014–2015 Award Year Deadline Dates

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice.

Catalog Federal Domestic Assistance (CFDA) Numbers: 84.038. Federal Perkins Loan Program; 84.033 Federal Work Study Program; and 84.007 Federal Supplemental Educational Opportunity Grant Program.

SUMMARY: The Secretary announces the 2014–2015 award year deadline dates for the submission of requests and documents from postsecondary institutions for the Federal Perkins Loan, Federal Work Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) programs (collectively, the ''campus-based programs'').

SUPPLEMENTARY INFORMATION: The Federal Perkins Loan program encourages institutions to make low-interest, long-term loans to needy undergraduate and graduate students to help pay for their education.

The FWS program encourages the part-time employment of needy undergraduate and graduate students to help pay for their education and to involve the students in community service activities.

The FSEOG program encourages institutions to provide grants to exceptionally needy undergraduate students to help pay for their education.

The Federal Perkins Loan, FWS, and FSEOG programs are authorized by parts E and C, and part A, subpart 3, respectively, of title IV of the Higher Education Act of 1965, as amended.

Throughout the year, in its ''Electronic Announcements,'' the Department will continue to provide additional information for the individual deadline dates listed in the table under the DEADLINE DATES section of this notice. You will also find the information on the Information for Financial Aid Professionals (IFAP) Web site at: *www.ifap.ed.gov.*

DATES: *Deadline Dates:* The following table provides the 2014–2015 award year deadline dates for the submission of applications, reports, waiver requests, and other documents for the campus-based programs. Institutions must meet the established deadline dates to ensure consideration for funding or waiver, as appropriate.

2014–2015 AWARD YEAR DEADLINE DATES

What does an institution submit?	How is it submitted?	What is the deadline for submission?
1. The Campus-Based Reallocation Form designated for the return of 2013–2014 funds and the request for supplemental FWS funds for the 2014–2015 award year.	The Reallocation Form must be submitted electronically via the Internet and is located in the ''Setup'' section of the Fiscal Operations Report and Application to Participate (FISAP) at the following Web site: *www.cbfisap.ed.gov.*	Monday, August 18, 2014.

2014–2015 AWARD YEAR DEADLINE DATES—Continued

What does an institution submit?	How is it submitted?	What is the deadline for submission?
2. The 2013–2014 FISAP	The FISAP is located at the following Web site: *www.cbfisap.ed.gov*. The FISAP must be submitted electronically via the Internet, and the FISAP's signature page must be mailed to: FISAP Administrator, 2020 Company, LLC, 3130 Fairview Park Drive, Suite 800, Falls Church, VA.	Wednesday, October 1, 2014.
3. The Work Colleges Program Report of 2013–2014 award year expenditures.	The Work Colleges Program Report is located in the ''Setup'' section of the FISAP at the following Web site: *www.cbfisap.ed.gov*. The report must be submitted electronically via the Internet, and a printed copy with an original signature must be submitted by one of the following methods: Hand deliver to: U.S. Department of Education, Federal Student Aid, Grants & Campus-Based Division, 830 First Street NE., Room 62E3, ATTN: Work Colleges Coordinator, Washington, DC 20002, or Mail to: The address listed above for hand delivery. However, please use ZIP Code 20202–5453.	Wednesday, October 1, 2014.
4. The 2013–2014 Financial Assistance for Students with Intellectual Disabilities Expenditure Report.	The Financial Assistance for Students with Intellectual Disabilities Expenditure Report is located in the ''Setup'' section of the FISAP at the following Web site: *www.cbfisap.ed.gov*. The report must be submitted electronically via the Internet, and a printed copy with an original signature must be submitted by one of the following methods: Hand deliver to: U.S. Department of Education, Federal Student Aid, Grants & Campus-Based Division, CTP Program, 830 First Street NE., Room 62E3, Washington, DC 20002, or Mail to: The address listed above for hand delivery. However, please use ZIP Code 20202–5453.	Wednesday, October 1, 2014.
5. The 2013–2014 FISAP Edit Corrections and Perkins Cash on Hand Update.	The FISAP is located at the following Web site: *www.cbfisap.ed.gov*. The FISAP Edit Corrections and Perkins Cash on Hand Update must be submitted electronically via the Internet.	Monday, December 15, 2014.
6. Request for a waiver of the 2015–2016 award year penalty for the underuse of 2013–2014 award year funds.	The request for a waiver is located in Part II, Section C of the FISAP at the following Web site: *www.cbfisap.ed.gov*. The request and justification must be submitted electronically via the Internet.	Monday, February 9, 2015.
7. The Institutional Application and Agreement for Participation in the Work Colleges Program for the 2015–2016 award year.	The Institutional Application and Agreement for Participation in the Work Colleges Program can be found in the ''Setup'' section of the FISAP at the following Web site: *www.cbfisap.ed.gov*. The application and agreement must be submitted electronically via the Internet, and a printed copy with original signature must be submitted by one of the following methods: Hand deliver to: U.S. Department of Education, Federal Student Aid, Grants & Campus-Based Division, 830 First Street NE., Room 62E3, ATTN: Work Colleges Coordinator, Washington, DC 20002, or Mail to: The address listed above for hand delivery. However, please use ZIP Code 20202–5453.	Monday, March 9, 2015.
8. Request for a waiver of the FWS Community Service Expenditure Requirement for the 2015–2016 award year.	The FWS Community Service waiver request can be found in the ''Setup'' section of the FISAP at the following Web site: *www.cbfisap.ed.gov*.	Monday, April 27, 2015.

2014–2015 AWARD YEAR DEADLINE DATES—CONTINUED

What does an institution submit?	How is it submitted?	What is the deadline for submission?
	The request and justification must be submitted electronically via the Internet.	

Notes:
- The deadline for electronic submissions is 11:59:00 p.m. (Eastern Time) on the applicable deadline date. Transmissions must be completed and accepted by 12:00:00 midnight to meet the deadline.
- Paper documents that are sent through the U.S. Postal Service must be postmarked or you must have a mail receipt stamped by the applicable deadline date.
- Paper documents that are delivered by a commercial courier must be received no later than 4:30:00 p.m. (Eastern Time) on the applicable deadline date.
- The Secretary may consider on a case-by-case basis the effect that a major disaster, as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)), or another unusual circumstance has on an institution in meeting the deadlines.

Proof of Mailing or Hand Delivery of Paper Documents

If you submit paper documents when permitted by mail or by hand delivery (or from a commercial courier), we accept as proof one of the following:

(1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(2) A legibly dated U.S. Postal Service postmark.

(3) A legibly dated shipping label, invoice, or receipt from a commercial courier.

(4) Other proof of mailing or delivery acceptable to the Secretary.

If you mail your paper documents 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.

An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. All institutions are encouraged to use certified or at least first-class mail.

The Department accepts hand deliveries from you or a commercial courier between 8:00:00 a.m. and 4:30:00 p.m., Washington, DC time, Monday through Friday except Federal holidays.

Sources for Detailed Information on These Requests

A more detailed discussion of each request for funds or waiver is provided in specific ''Electronic Announcements,'' which are posted on the Department's IFAP Web site (www.ifap.ed.gov) at least 30 days before the established deadline date for the specific request. Information on these items is also found in the Federal Student Aid Handbook, which is also posted on the Department's IFAP Web site.

Applicable Regulations: The following regulations apply to these programs:

(1) Student Assistance General Provisions, 34 CFR part 668.

(2) General Provisions for the Federal Perkins Loan Program, Federal Work Study Program, and Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 673.

(3) Federal Perkins Loan Program, 34 CFR part 674.

(4) Federal Work Study Programs, 34 CFR part 675.

(5) Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 676.

(6) Institutional Eligibility under the Higher Education Act of 1965, as amended, 34 CFR part 600.

(7) New Restrictions on Lobbying, 34 CFR part 82.

(8) Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), 34 CFR part 84.

(9) Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR part 3485.

(10) Drug and Alcohol Abuse Prevention, 34 CFR part 86.

FOR FURTHER INFORMATION CONTACT: Kathleen Wicks, Director of Grants & Campus-Based Division, U.S. Department of Education, Federal Student Aid, 830 First Street, NE., Union Center Plaza, room 62E3, Washington, DC 20202–5453. Telephone: (202) 377–3110 or via email: *kathleen.wicks@ed.gov.*

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

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 in this section.

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 this 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.

Program Authority: 20 U.S.C. 1070b *et seq.* and 1087aa *et seq.;* 42 U.S.C. 2751 *et seq.*

Dated: January 9, 2014.

James W. Runcie,

Chief Operating Officer, Federal Student Aid.

[FR Doc. 2014–00565 Filed 1–14–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission of Data by State Educational Agencies; Submission Dates for State Revenue and Expenditure Reports for Fiscal Year (FY) 2013, Revisions to Those Reports, and Revisions to Prior Fiscal Year Reports

AGENCY: National Center for Education Statistics, Institute of Education Sciences, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary announces dates for State educational agencies (SEAs) to submit expenditure and revenue data and average daily attendance statistics on ED Form 2447 (the National Public Education Financial Survey (NPEFS)) for FY 2013, revisions to those reports, and revisions to prior fiscal year reports. The Secretary sets these dates to ensure that data are available to serve as the basis for timely distribution of Federal funds. The U.S. Census Bureau is the data collection agent for the National Center for Education Statistics (NCES). The data will be published by NCES and will be used by the Secretary in the calculation of allocations for FY 2015 appropriated funds.

DATES: SEAs can begin submitting data on Thursday, January 30, 2014. The deadline for the final submission of all data, including any revisions to previously submitted data for FY 2012 and FY 2013, is Friday, August 15, 2014. Any resubmissions of FY 2012 or FY 2013 data by SEAs in response to requests for clarification, reconciliation, or other inquiries by NCES or the Census Bureau must be completed as soon as possible but no later than Tuesday, September 2, 2014. All outstanding data issues must be reconciled or resolved by the SEAs, NCES, and the Census Bureau as soon as possible but no later than September 2, 2014.

ADDRESSES AND SUBMISSION INFORMATION: SEAs may mail ED Form 2447 to: U.S. Census Bureau, ATTENTION: Governments Division, Washington, DC 20233–6800.

SEAs may submit data online using the interactive survey form (NPEFS Web form) at: *http://surveys.nces.ed.gov/ccdnpefs.* The NPEFS Web form includes a digital confirmation page where a personal identification number (PIN) may be entered. A successful entry of the PIN serves as a signature by the authorizing official. A certification form also may be printed from the Web site, signed by the authorizing official, and mailed to the Governments Division of the Census Bureau at the Washington, DC address provided above, no later than five business days of submission of the NPEFS Web form.

Alternatively, SEAs may hand-deliver submissions by August 15, 2014, at 4:00 p.m. (Washington, DC time) to: Governments Division, U.S. Census Bureau, 4600 Silver Hill Road, Suitland, MD 20746.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Q. Cornman, NPEFS Project Director, National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Telephone: (202) 502–7338 or by email: *stephen.cornman@ed.gov*; or an NPEFS team member (Census Bureau). Telephone: 1–800–437–4196 or (301) 763–1571 or email: *Govs.npefs.list@census.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: Under the authority of section 153(a)(1)(I) of the Education Sciences Reform Act of 2002, 20 U.S.C. 9543, which authorizes NCES to gather data on the financing of education, NCES collects data annually from SEAs through ED Form 2447. The report from SEAs includes attendance, revenue, and expenditure data from which NCES determines a State's ''average per-pupil expenditure'' (SPPE) for elementary and secondary education, as defined in section 9101(2) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7801(2)).

In addition to using the SPPE data as general information on the financing of elementary and secondary education, the Secretary uses these data directly in calculating allocations for certain formula grant programs, including, but not limited to, Title I, Part A of the ESEA; Impact Aid; and Indian Education programs. Other programs, such as the Education for Homeless Children and Youth program under Title VII of the McKinney-Vento Homeless Assistance Act and the Teacher Quality State Grants program (Title II, Part A of the ESEA), make use of SPPE data indirectly because their formulas are based, in whole or in part, on State Title I, Part A allocations.

In January 2014, the Census Bureau, acting as the data collection agent for NCES, will email to SEAs ED Form 2447, with instructions, and will request that SEAs commence submitting FY 2013 data to the Census Bureau on Thursday, January 30, 2014. SEAs are urged to submit accurate and complete data by Friday, March 14, 2014, to facilitate timely processing.

Submissions by SEAs to the Census Bureau will be analyzed for accuracy and returned to each SEA for verification. SEAs must submit all data, including any revisions to FY 2012 and FY 2013 data, to the Census Bureau no later than Friday, August 15, 2014. Any resubmissions of FY 2012 or FY 2013 data by SEAs in response to requests for clarification, reconciliation, or other inquiries by NCES or the Census Bureau must be completed by Tuesday, September 2, 2014. Between August 15, 2014, and September 2, 2014, SEAs may also, on their own initiative, resubmit data to resolve issues not addressed in their final submission of NPEFS data by August 15, 2014. All outstanding data issues must be reconciled or resolved by the SEAs, NCES, and the Census Bureau as soon as possible but no later than September 2, 2014.

In order to facilitate timely submission of data, the Census Bureau will send reminder notices to SEAs in May, June, and July of 2014.

Having accurate and consistent information on time is critical to an efficient and fair Department of Education allocation process and to the NCES statistical process. To ensure timely distribution of Federal education funds based on the best, most accurate data available, the Department of Education establishes, for program funding allocation purposes, Thursday, August 15, 2014, as the final date by which the NPEFS Web form or ED Form 2447 must be submitted.

Any resubmissions of FY 2012 or FY 2013 data by SEAs in response to requests for clarification, reconciliation, or other inquiries by NCES or the Census Bureau must be completed through the NPEFS Web form or ED Form 2447 by Tuesday, September 2, 2014. If an SEA submits revised data after the final deadline that result in a lower SPPE figure, the SEA's allocations may be adjusted downward or the Department may direct the SEA to return funds. SEAs should be aware that all of these data are subject to audit and that, if any inaccuracies are discovered in the audit process, the Department may seek recovery of overpayments for the applicable programs.

Note: The following are important dates in the data collection process for FY 2013:

January 30, 2014 SEAs can begin to submit accurate and complete data for FY 2013 and revisions to previously submitted data for FY 2012.

March 14, 2014 Date by which SEAs are urged to submit accurate and complete data for FY 2012 and FY 2013.

August 15, 2014 Mandatory final submission date for FY 2012 and FY 2013 data to be used for program funding allocation purposes.

September 2, 2014 Mandatory final deadline for responses by SEAs to requests for clarification, reconciliation, or other inquiries by NCES or the Census Bureau. All data issues must be resolved.

If an SEA's submission is received by the Census Bureau after August 15, 2014, the SEA must show one of the following as proof that the submission was mailed on or before that date:

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.

If the SEA mails ED Form 2447 through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

1. A private metered postmark.

2. A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an SEA should check with its local post office.

Accessible Format: Individuals with disabilities may obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to: Mr. Stephen Q. Cornman, NPEFS Project Director, National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Telephone: (202) 502–7338 or email: *stephen.cornman@ed.gov.*

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 this 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.

Authority: 20 U.S.C. 9543.

Dated: January 10, 2014.

John Q. Easton,

Director, Institute of Education Sciences.

[FR Doc. 2014–00650 Filed 1–14–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Petroleum Council (NPC)

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of renewal.

SUMMARY: Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, (Pub. L. 92–463), and in accordance with Title 41 of the Code of Federal Regulations, Section 102–3.65(a), and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the National Petroleum Council (NPC) will be renewed for a two-year period beginning on January 10, 2014.

The Council will provide advice and recommendations to the Secretary of Energy on matters relating to oil and natural gas, or the oil and natural gas industry.

Additionally, the renewal of the NPC has been determined to be essential to the conduct of the Department of Energy's business and to be in the public interest in connection with the performance of duties imposed upon the Department of Energy, by law and agreement. The Council will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, adhering to the rules and regulations in implementation of that Act.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Johnson at (202) 586–6458.

Issued at Washington DC, on January 10, 2014.

Carol A. Matthews,

Committee Management Officer.

[FR Doc. 2014–00625 Filed 1–14–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2058–086]

Avista Corporation; Notice of Application To Amend License and Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment to License.

b. *Project No:* 2058–086.

c. *Date Filed:* December 12, 2013.

d. *Applicant:* Avista Corporation.

e. *Name of Project:* Clark Fork Hydroelectric Project.

f. *Location:* On the Clark Fork River in Bonner County, Idaho and Sanders County, Montana. The project occupies federal lands administered by the US Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Avista, Attn: Timothy J. Swant, MSC–1, P.O. Box 3727, Spokane, WA 99220–3727, (406)–847–1282.

i. *FERC Contact:* Steven Sachs at (202) 502–8666; or *Steven.Sachs@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file any motion to intervene, protest, comments, and/or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The first page of any filing should include docket number P–2058–086.

k. *Description of Request:* The applicant proposes to modify the Noxon Rapids development of the Clark Fork Project by removing three 900-foot-long, 230-kilovolt (kV) transmission lines and replacing them with three new 3,800-foot-long, 230-kV transmission lines. Construction of the new transmission lines would require the project boundary to be expanded by 12 acres onto land owned by the applicant.

l. *Locations of the Application:* This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number P–2058 in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above and at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: January 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–00540 Filed 1–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–34–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Application

Take notice that on December 27, 2013, Transcontinental Gas Pipe Line Company, LLC (Transco), P.O. Box 1396, Houston, Texas 77251, filed an application in Docket No. CP14–34–000, pursuant to Section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, for a certificate of public convenience and necessity to abandon certain pipeline lateral facilities. Specifically, Transco proposes (i) The abandonment by sale to High Point Gas Gathering, LLC of Transco's pipeline lateral extending from Mississippi Canyon Block 108 to South Pass Block 53 offshore Louisiana, and (ii) the abandonment by assignment to High Point Gas Transmission, LLC Transco's 25.3% interest in the pipeline lateral extending from Mississippi Canyon Block 194 to Romere Pass, located offshore and onshore Louisiana. Transco also requests a finding that Transco's pipeline lateral extending from Mississippi Canyon Block 108 to South Pass Block 53 will, upon abandonment, be non-jurisdictional under Section 1(b) of the NGA, and that the lines are gathering facilities exempt from the Commission's jurisdiction under NGA Section 1(b), all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Any questions regarding this application should be directed to Ray Green, Staff Analyst, Certificates & Tariffs (713) 215–3385, P.O. Box 1396, Houston, Texas 77251

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's

environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: January 29, 2014.

Dated: January 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–00543 Filed 1–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–359–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 01/08/14 Negotiated Rates—Sequent Energy Management (HUB) 3075–89 to be effective 1/7/2014.
Filed Date: 1/8/14.
Accession Number: 20140108–5094.
Comments Due: 5 p.m. ET 1/21/14.

Docket Numbers: RP14–360–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 01/08/14 Negotiated Rates—Trafigura AG (HUB) 7445–89 to be effective 1/7/2014.
Filed Date: 1/8/14.
Accession Number: 20140108–5134.
Comments Due: 5 p.m. ET 1/21/14.

Docket Numbers: RP14–361–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 01/08/14 Negotiated Rates—JP Morgan Ventures Energy Corp (HUB) 6025–89 to be effective 1/7/2014.
Filed Date: 1/8/14.
Accession Number: 20140108–5136.
Comments Due: 5 p.m. ET 1/21/14.

Docket Numbers: RP14–362–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 01/08/14 Negotiated Rates—United Energy Trading, LLC (HUB) 5095–89 to be effective 1/7/2014.
Filed Date: 1/8/14.
Accession Number: 20140108–5143.
Comments Due: 5 p.m. ET 1/21/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–606–001.
Applicants: Columbia Gas Transmission, LLC.
Description: Submits tariff filing per 154.203: LNG Settlement to be effective 2/1/2014.
Filed Date: 1/2/14.
Accession Number: 20140102–5005.
Comments Due: 5 p.m. ET 1/14/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 9, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–00590 Filed 1–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–347–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: Amendment to Neg Rate Agmt (BP37–14) to be effective 1/7/2014.
Filed Date: 1/3/14.
Accession Number: 20140103–5027.
Comments Due: 5 p.m. ET 1/15/14.

Docket Numbers: RP14–348–000.
Applicants: TransColorado Gas Transmission Company L.
Description: DART Electronic Execution Update to be effective 2/3/2014.
Filed Date: 1/3/14.
Accession Number: 20140103–5044.
Comments Due: 5 p.m. ET 1/15/14.

Docket Numbers: RP14–349–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: Request for Limited Waivers of Wyoming Interstate Company, L.L.C.
Filed Date: 1/3/14.
Accession Number: 20140103–5069.
Comments Due: 5 p.m. ET 1/15/14.

Docket Numbers: RP14–350–000.
Applicants: Enable Gas Transmission, LLC.
Description: Negotiated Rate Filing—January 2014—Tenaska 9840 Att A to be effective 1/3/2014.
Filed Date: 1/3/14.
Accession Number: 20140103–5096.
Comments Due: 5 p.m. ET 1/15/14.

Docket Numbers: RP14–351–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 01/06/14 Negotiated Rates—JP Morgan Ventures Energy Corp (HUB) 6025–89 to be effective 1/3/2014.
Filed Date: 1/6/14.
Accession Number: 20140106–5079.
Comments Due: 5 p.m. ET 1/21/14.

Docket Numbers: RP14–352–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 01/06/14 Negotiated Rates—Sequent Energy Management (HUB) 3075–89 to be effective 1/3/2014.
Filed Date: 1/6/14.
Accession Number: 20140106–5080.
Comments Due: 5 p.m. ET 1/21/14.

Docket Numbers: RP14–353–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 01/06/14 Negotiated Rates—Trafigura AG (HUB) 7445–89 to be effective 1/3/2014.
Filed Date: 1/6/14.
Accession Number: 20140106–5081.
Comments Due: 5 p.m. ET 1/21/14.

Docket Numbers: RP14–354–000.
Applicants: Texas Eastern Transmission, LP.

Description: Customer Name Changes Jan 2014 Cleanup to be effective 2/7/2014.
Filed Date: 1/7/14.
Accession Number: 20140107–5024.
Comments Due: 5 p.m. ET 1/21/14.

Docket Numbers: RP14–355–000.
Applicants: Texas Eastern Transmission, LP.
Description: Negotiated Rate Agreements Cleanup Jan 2014 to be effective 2/7/2014.
Filed Date: 1/7/14.
Accession Number: 20140107–5055.
Comments Due: 5 p.m. ET 1/21/14.

Docket Numbers: RP14–356–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Negotiated Rate Agreements Cleanup—Jan2014 to be effective 2/7/2014.
Filed Date: 1/7/14.
Accession Number: 20140107–5077.
Comments Due: 5 p.m. ET 1/21/14.

Docket Numbers: RP14–357–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Non-conforming Agreements Cleanup—Jan 2014 to be effective 2/7/2014.
Filed Date: 1/7/14.
Accession Number: 20140107–5116.
Comments Due: 5 p.m. ET 1/21/14.

Docket Numbers: RP14–358–000.
Applicants: Dauphin Island Gathering Partners.
Description: Negotiated Rates 1–6–14 to be effective 1/8/2014.
Filed Date: 1/7/14.
Accession Number: 20140107–5127.
Comments Due: 5 p.m. ET 1/21/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–00589 Filed 1–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR14–13–000]

Enbridge Energy, Limited Partnership; Notice of Supplement to Facilities Surcharge Settlement

Take notice that on December 13, 2013, in accordance with Rule 602(f) of the Commission's Rules of Practice and Procedure, 18 CFR 385.602(f), Enbridge Energy, Limited Partnership (Enbridge Energy), with the support of the Canadian Association of Petroleum Producers (CAPP), submitted a Supplement to the Facilities Surcharge Settlement approved by the Commission on June 30, 2004, in Docket No. OR04–2–000.

Initial comments and reply comments on the Settlement Supplement should be submitted on or before the dates indicated below.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on January 15, 2014.

Reply Comments: 5:00 p.m. Eastern time on January 21, 2014.

Dated: January 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–00545 Filed 1–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR14–15–000]

BKEP Pipeline, L.L.C.; Notice of Petition for Waiver

Take notice that on December 17, 2013, BKEP Pipeline, L.L.C. (BKEP) filed a request for temporary waiver of the tariff filing and reporting requirements of section 6 and section 20 of the Interstate Commerce Act (ICA).

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or

call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern time on January 21, 2014.

Dated: January 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–00539 Filed 1–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14574–000]

New England Hydropower Company, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 18, 2013, the New England Hydropower Company, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Union Pond Dam Hydroelectric Project (proposed project) to be located on Hockanum River, in the city of Manchester, in Hartford County, Connecticut. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) An existing 33-foot-high, 590-foot-long earth embankment dam with a 360-foot-long concrete spillway; (2) the existing 50-acre Union Pond with a storage capacity of 515 acre-feet at an elevation of about 142.3 feet above mean sea level; (3) a new 6-foot-high, 8-foot-wide hydraulically-powered sluice gate and a new 6-foot-high, 9-foot-wide trashrack with 6-inch bar spacing; (4) a new 35-foot-long, 11.3-foot-diameter concrete intake canal; (5) a new 56-foot-long, 7.7-foot wide Archimedes screw generator unit with an installed capacity of 122 kilowatts; (6) a new 10-foot-high, 12-foot-long, 18-foot-wide concrete powerhouse containing a new gearbox and electrical controls; (7) a new 90-foot-long, 35-kilovolt above-ground transmission line connecting the powerhouse to Connecticut Light and Power's distribution system; and (8) appurtenant facilities. The estimated annual generation of the proposed Union Pond Dam Hydroelectric Project would be about 575 megawatt-hours. The existing Union Pond Dam and adjacent property are owned by the city of Manchester.

Applicant Contact: Mr. Michael C. Kerr, New England Hydropower Company, LLC, P.O. Box 5524, Beverly Farms, Massachusetts 01915; phone: (978) 360–2547.

FERC Contact: John Ramer; phone: (202) 502–8969.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The first page of any filing should include docket number P–14574–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14574) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: January 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–00541 Filed 1–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD14–11–000]

Brigham City Corporation; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On December 30, 2013, Brigham City Corporation (Brigham) filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act, as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The 800-kW Box Elder Power Plant Upgrade Project would utilize Brigham's existing 30-inch and 24-inch-diameter water supply distribution line. The project would be located in Box Elder County, Utah.

Applicant Contact: Dave Burnett, Brigham City, Utah, 20 North Main, Brigham, UT 84302 Phone No. (435) 734–6623.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A small segment of existing 24-inch-diameter pipe feeding into a new 20-inch-diameter intake pipe; (2) an existing bifurcation pipe to bypass the powerhouse; (3) an existing powerhouse containing one new 800-kilowatt generating unit, which will replace an existing 575-kW unit; (4) an existing 23-foot-long, 4-foot-wide tailrace which discharges into an existing 36-inch-diameter pipe; and (5) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 4,300 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA.	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY—Continued

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(C)(i), as amended by HREA.	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA.	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (e.g., CD14–11–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: January 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–00542 Filed 1–14–14; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2001–2005 (2013).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–35–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Request Under Blanket Authorization

Take notice that on December 30, 2013, Southern Star Central Gas Pipeline, Inc., (Southern Star), 4700 State Highway 56, Owensboro, Kentucky 42301, filed in Docket No. CP14–35–000, a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act. Southern Star seeks authorization to relocate, replace, and abandon sections of its 16-inch EK Pipeline, 16-inch ES Pipeline and 26-inch E Pipeline to facilitate the Kansas Department of Transportation's plan to construct and modify Highway K–10 and various interchanges, collectively known as the South Lawrence Trafficway Project (STL Project) located in Douglas County, Kansas. Southern Star will construct approximately 3.2 miles of new pipeline that will be rerouted around and lowered through the STL Project and tied into existing lines, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this Application should be directed to Phyllis K. Medley, Senior Analyst, Regulatory Compliance, Southern Star Central Gas Pipeline, Inc., 4700 State Highway 56, Owensboro, Kentucky 42301, or by calling (270) 852–4653, or by fax (270) 852–5010, or by email *Phyllis.k.medley@sscgp.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be

treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with he Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: January 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–00544 Filed 1–14–14; 8:45 am]

BILLING CODE 6717–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice: 2014–0002]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP088513XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction. Comments received will be made available to the public.

DATES: Comments must be received on or before February 10, 2014 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through *Regulations.gov* at *WWW.REGULATIONS.GOV.* To submit a comment, enter EIB–2014–0002 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2014–0002 on any attached document.

Reference: AP088513XX.

Purpose and Use: Brief description of the purpose of the transaction:

To support the export of U.S.-manufactured commercial aircraft to Canada.

Brief non-proprietary description of the anticipated use of the items being exported:

To be used for long-haul passenger air service between Canada and other countries. To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported are not expected to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties: Principal Supplier: The Boeing Company.

Obligor: Air Canada.

Guarantor(s): N/A.

Description of Items Being Exported: Boeing 787 aircraft.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

Cristopolis Dieguez,

Program Specialist, Office of the General Counsel.

[FR Doc. 2014–00602 Filed 1–14–14; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the

PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 17, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov <mailto:PRA@fcc.gov>* and to *Cathy.Williams@fcc.gov <mailto:Cathy.Williams@fcc.gov>.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0061.

Title: Annual Report of Cable Television Systems, FCC Form 325.

Form Number: FCC Form 325.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,100 respondents; 1,100 responses.

Estimated Time per Response: 2.166 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i), 601 and 602 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,383 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The Federal Communications Commission uses FCC Form 325 ''Annual Report of Cable Television Systems'' to solicit basic operational information from the cable television industry. The information requested includes: the operator's name and address; system-wide capacity and frequency information; channel usage; and number of subscribers. The purpose of the form is to require operational cable television systems to verify, correct and/or furnish the Commission with the most current information on their respective cable systems.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–00591 Filed 1–14–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 17, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov mailto:PRA@fcc.gov* and to *Cathy.Williams@fcc.gov mailto:Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0850.

Title: Quick-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services, FCC Form 605.

Form No.: FCC Form 605.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local or tribal government.

Number of Respondents/Responses: 130,000 respondents; 130,000 responses.

Estimated Time per Response: .44 hours.

Frequency of Response: On occasion reporting requirement; third party disclosure requirement, recordkeeping & other (5 & 10 years).

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 CFR 1.913(a)(4).

Total Annual Burden: 57,200 hours.

Total Respondent Cost: $2,676,700.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: In general there is no need for confidentiality. The Commission is required to withhold from disclosure certain information about the individual such as date of birth or telephone number.

Needs and Uses: FCC 605 application is a consolidated application form for Ship, Aircraft, Amateur, Restricted and Commercial Radio Operators, and General Mobile Radio Services and is used to collect licensing data for the Universal Licensing System. The Commission is requesting OMB approval for an extension (no change in the reporting, recordkeeping and/or third party disclosure requirements). The Commission is making minor clarifications to the instructions on the main form and schedules B and E for clarification purposes.

The data collected on this form includes the Date of Birth for Commercial Operator licensees however this information will be redacted from public view.

The FCC uses the information in FCC Form 605 to determine whether the applicant is legally, technically, and financially qualified to obtain a license. Without such information, the

Commission cannot determine whether to issue the licenses to the applicants that provide telecommunication services to the public, and therefore, to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. Information provided on this form will also be used to update the database and to provide for proper use of the frequency spectrum as well as enforcement purposes.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–00592 Filed 1–14–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

January 10, 2014

TIME AND DATE: 10:00 a.m., Thursday, January 30, 2014.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (entry from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the following matters: *Secretary of Labor* v. *Twentymile Coal Co.,* Docket Nos. WEST 2009–241, et al., and *Secretary of Labor* v. *Twentymile Coal Co., Docket Nos. WEST 2009–1323, et al.* (Issues include whether the Administrative Law Judge erred in affirming citations for failing to provide additional insulation for a communications circuit.)

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2014–00749 Filed 1–13–14; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

January 10, 2014.

TIME AND DATE: 1:00 p.m., Thursday, January 30, 2014.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (entry from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Twentymile Coal Co.,* Docket Nos. WEST 2009–241, et al., and *Secretary of Labor* v. *Twentymile Coal Co., Docket Nos. WEST 2009–1323, et al.* (Issues include whether the Administrative Law Judge erred in affirming citations for failing to provide additional insulation for a communications circuit.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2014–00747 Filed 1–13–14; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statement and approved collection of information instrument are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Cynthia Ayouch—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW.,Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following report:

Report title: Domestic Finance Company Report of Consolidated Assets and Liabilities.

Agency form number: FR 2248.

OMB control number: 7100–0005.

Effective Date: January 31, 2014.

Frequency: Monthly, Quarterly, and Semi-annually.

Reporters: Domestic finance companies and mortgage companies.

Estimated annual reporting hours: 750 hours.

Estimated average hours per response: Monthly, 20 minutes; Quarterly, 30 minutes; Semi-annually, 10 minutes.

Number of respondents: 150.

General description of report: This information collection is authorized pursuant the Federal Reserve Act (12 U.S.C. 225(a)). Obligation to respond to this information collection is voluntary. Individual respondent data are confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552).

Abstract: The FR 2248 is collected monthly as of the last calendar day of the month from a stratified sample of finance companies. Each monthly report collects balance sheet data on major categories of consumer and business credit receivables and on major short-term liabilities. For quarter-end months (March, June, September, and December), additional asset and liability items are collected to provide a full balance sheet. A supplemental section collects data on securitized assets. The data are used to construct universe estimates of finance company holdings,

which are published in the monthly statistical releases Finance Companies (G.20) and Consumer Credit (G.19), in the quarterly statistical release Financial Accounts of the United States (Z.1), and in the *Federal Reserve Bulletin* (Tables 1.51, 1.52, and 1.55).

Current Actions: On November 6, 2013, the Federal Reserve published a notice in the **Federal Register** (78 FR 66714) requesting public comment for 60 days on the proposal to extend, with revision, the Domestic Finance Company Report of Consolidated Assets and Liabilities. The comment period for this notice expired on January 6, 2014. The Federal Reserve did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, January 9, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–00490 Filed 1–14–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, pursuant to 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statement and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Cynthia Ayouch—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829.

Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Final approval under OMB delegated authority of the extension, with revision, of the following information collection:

Report title: Interchange Transaction Fees Surveys.

Agency form number: FR 3064a and FR 3064b.

OMB Control number: 7100–0344.

Frequency: FR 3064a—Biennial; FR 3064b—Annual.

Reporters: Issuers of debit cards (FR 3064a) and payment card networks (FR 3064b).

Estimated annual reporting hours: FR 3064a: 111,600 hours; FR 3064b: 1,350 hours.

Estimated average hours per response: FR 3064a: 200 hours; FR 3064b: 75 hours.

Number of respondents: FR 3064a: 558; FR 3064b: 18.

General description of report: This information collection is authorized by subsection 920(a) of the Electronic Fund Transfer Act, which was amended by section 1075(a) of the Dodd-Frank Act. 15 U.S.C. 1693o-2. This subsection requires the Board to disclose (on a biennial basis) aggregate or summary information concerning the costs incurred, and interchange transaction fees charged or received, by issuers or payment card networks in connection with the authorization, clearance or settlement of electronic debit transaction as the Board considers appropriate and in the public interest. 15 U.S.C. 1693o-2(a)(3)(B). It also provides the Board with authority to require issuers and payment card networks to provide information to enable the Board to carry out the provisions of the subsection. Response to these surveys is mandatory.

In accordance with the statutory requirement, the Board currently releases aggregate or summary information from the FR 3064b survey responses, and, average interchange fees at the network level. However, as proposed, the Board will release, at the network level, the percentage of total number of transactions, the percentage of total value of transactions, and the average transaction value for exempt and not-exempt issuers obtained on the FR 3064b. The Board has determined to release this information both because it can already be calculated based on the information the Board currently releases on average interchange fees and because the Board believes the release of such information may be useful to issuers and merchants in choosing payment card networks in which to participate and to policymakers in assessing the effect of Regulation II on the level of interchange fees received by issuers over time. However, the remaining individual issuer and payment card information collected on these surveys will be treated as confidential under exemption (b)(4) of the Freedom of Information Act (FOIA), which protects information that, if released, would cause substantial harm to the competitive position of the survey respondents. 5 U.S.C. 552(b)(4) (exempting from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential'').

Abstract: The Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) requires the Board to disclose (on a biennial basis) aggregate or summary information concerning the costs incurred, and interchange transaction fees charged or received, by issuers or payment card networks in connection with the authorization, clearing, or settlement of electronic debit transactions as the Board considers appropriate or in the public interest. The data from these surveys are used in fulfilling that disclosure requirement. In addition, the Board uses data from the payment card network survey (FR 3064b) to publicly report on an annual basis the extent to which networks have established separate interchange fees for exempt and covered issuers.[1] Finally, the Board uses the data from these surveys in determining whether to propose revisions to the interchange fee standards in Regulation II (12 CFR Part 235). The Dodd-Frank Act provides the Board with authority to require debit card issuers and payment card networks to submit information in order to carry out provisions of the Dodd-Frank Act regarding interchange fee standards.

Current Actions: On October 18, 2013, the Board published a notice in the **Federal Register** (78 FR 62352) requesting public comment for 60 days on the proposal to extend, with revision, the Interchange Transaction Fees Surveys. The comment period expired on December 17, 2013. The Board received five comment letters regarding the proposed revisions to these surveys. The comments are summarized and addressed below.

[1] Average debit card interchange fee by payment card network, *http://www.federalreserve.gov/paymentsystems/regii-average-interchange-fee.htm.*

Summary of Public Comments

The Board received comments from one financial institution, one banking industry trade association, a joint letter from eight banking industry associations (including the one association that responded separately), and two payment card networks. Some general comments were received regarding the treatment of confidential data, time schedule, reporting panel, and report format. Commenters also provided input on how to categorize debit card transactions. In addition, one commenter focused on specific data items proposed for collection in the debit card issuer survey. The commenter asked the Board to include additional reporting categories within fixed and variable costs and additional clarification on affiliated processor costs and international fraud losses. The subsequent sections of this notice address the comments on and modifications to specific surveys.

General Comments

The Board asked specific questions and commenters provided several comments that are relevant to both the debit card issuer survey (FR 3064a) and the payment card network survey (FR 3064b). These topics included the reporting burden to complete the surveys, reporting panel, report format, usefulness of the information collected, and opportunities to enhance the quality, utility, and clarity of the information collected.

One commenter encouraged the Board to allow completion of the surveys on a consolidated basis at the holding company level rather than at the individual affiliate level. The commenter suggested that requiring individual issuer responses, as opposed to holding company-level responses, would be burdensome with little apparent benefit. The survey already requests respondents to provide these data at the bank holding company level to reduce respondent burden. Issuers will continue to have the opportunity to respond at the charter level if needed.

Two commenters suggested that exempt issuers (those with less than $10 billion in assets) be added to the reporting panel and allowed to participate voluntarily in the debit card issuer survey.[2] The Board does not believe it would be appropriate to include exempt issuer costs in the determination of the interchange fee standard for covered issuers. Moreover, because some covered issuers have small debit card programs, the Board already collects data on costs of small debit card programs through its survey of covered issuers. Further, there are other channels, such as certain questions contained in the payment card network survey (FR 3064b), to provide information on the effect of Regulation II on small issuers. For these reasons, the survey will not be expanded to cover exempt issuers.

Two commenters requested that the Board continue to conduct follow-up interviews with respondents after survey responses are submitted to improve the quality of the data received, increase the consistency of responses, and reconcile inconsistencies across responses. The Board will continue the existing follow-up process, which has worked well in improving the quality of the data.

Two commenters requested that respondents be allowed to elaborate on their responses to particular questions. For example, issuers may want to elaborate on any assumptions that they had to use to calculate certain cost items. This flexibility can increase the quality of survey responses and enable the Board to check for consistency across respondents. The surveys currently have comment boxes that can be used for this purpose.

The Board also requested comment on the cost of providing information and feasibility of automating the information collection. The Board did not receive any comments on these questions.

In response to the Board's question on how single-message (PIN) and dual-message (signature) transactions should be categorized, several commenters suggested that the Board should not equate PIN authentication with single-message networks and signature authentication with dual-message networks. One commenter further suggested that the Board collect information solely on the messaging system of the network (single-message or dual-message) without regard to the methods by which transactions processed or routed on that network may be authenticated. The Board agrees with these comments and will continue to categorize debit card transactions by message type and deemphasize the link between message type and authentication method. Further, because a network may be able to process both single-message and dual-message transactions, the Board will clarify Question 3 in Section I of the Payment Card Network Survey to reflect this, and to collect information from the network for each message type.

Debit Card Issuer Survey (FR 3064a)

Section-by-Section Analysis

Section I: Respondent Information

Question 3: Do you have a general-use prepaid card program?—The Board proposed to delete this question because it is redundant given that issuers with general-use prepaid card programs complete Section V. The Board did not receive any comments on this section. This section will be implemented as proposed with clarifying changes as appropriate.

Section II: All Debit Card Transactions (Including General-Use Prepaid Card Transactions) and Section V: General-Use Prepaid Card Transactions

Question 1: General-use prepaid card exemption: Exempt vs. non-exempt general-use prepaid card transactions—The Board proposed to modify question 1.d by deleting line item *1d.1 (Volume and Value), All general-use prepaid card transactions between January 1 and September 30, 2011.* As the rule went into effect on October 1, 2011, collecting data for this time frame was necessary to compare 2011 data before and after the effective date, but the split time frame is no longer relevant. The Board did not receive any comments on this section. This section will be implemented as proposed and subsequent line items will be renumbered.

Section II: All Debit Card Transactions, Section III: All Single-Message (PIN) Debit Card Transactions, Section IV: All Dual-Message (Signature) Debit Card Transactions, and Section V: General-Use Prepaid Card Transactions

Question 3: Cost of authorization, clearance, and settlement—The Board proposed to add questions 3e and 3f to break out the fixed and variable cost components for line items *3b.1 In-house costs and 3b.2 Third-party processing fees,* respectively. The Board also proposed adding definitions for variable and fixed costs to the instructions.[3] In addition, the Board proposed to modify the instruction for Question 3 to exclude transaction monitoring costs as part of the costs of authorization, clearance, and settlement. Transactions monitoring costs are reported in *Question 5, Fraud prevention and data security costs, line item 5a.1 Transactions monitoring cost tied to authorization.* One commenter stated that the variable cost/fixed cost

[2] Section 235.8(b) of the Board's Regulation II requires that issuers covered by the interchange fee standards in Regulation II file reports with the Board.

[3] Fixed costs are defined as costs that do not vary with changes in the number or value of transaction over the course of the reporting period (i.e., calendar year 2013 for this application of the survey).

dichotomy is not an appropriate means for identifying incremental authorization, clearance, and settlement costs. The commenter believes that the definition of ''costs of authorization, clearance, and settlement'' fails to include all costs related to a debit card issuer's authorization, clearance, and settlement activities. The commenter recommended that the set of costs be expanded to all debit card costs to provide the Board a more comprehensive accounting of debit card program costs and put authorization, clearance, and settlement costs in context. The commenter provided a list of categories of costs that should be included and recommended that these categories be reported as individual cost items.

Many of the proposed categories of costs are included in various sections in the survey and those that are not included are costs that the Board did not consider as part of the interchange fee standard in Regulation II. Including these additional cost categories and requiring issuers to report at a more detailed level would not significantly enhance the Board's understanding of the relevant costs for Regulation II and would represent a significant burden to respondents. For these reasons, the set and format of data collected will be implemented as proposed.

One commenter asserted that the treatment of affiliated processor costs at the cost of service to the affiliate processor rather than the cost to the issuer ignores common inter-affiliate cost accounting practices under which the issuer is charged an imputed mark-up for services provided by the affiliated processor. The commenter asserted that the proposed change would result in issuers that use affiliates for transaction processing services reporting lower cost data than they would have reported had they used an unaffiliated processor. The Board will modify the instructions for Question 3 to allow affiliated processor costs to be reported at the cost to the issuer, provided that the cost to the issuer is determined in a way that is consistent with fees that the affiliated processor would charge to an unaffiliated debit card issuer.

One commenter suggested that international fraud losses be included as part of reported fraud losses. The commenter noted that international fraud losses are a material cost and are tied to domestic debit cards. The Board notes that international fraud losses arise from transactions that are outside the scope of Regulation II. As such, international fraud losses are analogous to ATM fraud losses, which are also not included. For these reasons, the survey will not be modified to include international fraud losses.

General Instructions

The Board proposed to change the timing for conducting the calendar year 2013 survey, making the survey available by February 3, 2014, with responses due by March 17, 2014. Future surveys would revert to the original schedule (mid-February to mid-April). Two commenters recommended a 90-day completion period for the debit card issuer survey to allow ample time for internal review before the surveys are submitted to the Board.[4] Given the potential need to expeditiously adjust the Regulation II interchange fee standard, in the event the Board does not prevail on appeal, the 2014 time frame will remain as proposed; however, the time frame to compete future year surveys will be increased to 90 days.

Payment Card Network Survey (FR 3064b)

Section-by-Section Analysis

Section I: Respondent Information

Is your payment card network a single-message (PIN) or dual-message (signature) network? The Board requested comment on a payment card network's ability to process single-message transactions across dual-message networks and vice versa. In addition, the Board requested comment on how such transactions should be categorized. As mentioned above, several commenters suggested that the Board not equate PIN authentication with single-message networks and signature authentication with dual-message networks in either survey. The commenters suggested that the Board collect information solely on the messaging system of the network (single-message or dual-message) without regard to the methods by which transactions processed or routed on that network may be authenticated. The Board concurs and the surveys will continue to categorize debit card transactions as single- or dual-message without the inference that all messages of a given type use the same authentication method. In addition, the survey will collect information from the network for each message type.

[4] To enable the Board to collect and use updated data if necessary to respond quickly to pending litigation regarding Regulation II, the Board proposed to accelerate the schedule for calendar year 2013 survey, making the survey available by February 3, 2014, with responses due by March 17, 2014.

Section II: Debit Card Transactions

Small issuer exemption: Transactions using card of exempt vs. non-exempt issuers—The Board proposed to revise this section by deleting line item *1e.1 (Volume and Value), All settled purchase transactions between January 1, 2011–September 30, 2011,* because the timeframe is no longer relevant. The Board did not receive any comments on this section. This section will be implemented as proposed and subsequent line items will be renumbered.

Transactions using card of exempt vs. non-exempt issuers (January 1, 2011–September 30, 2011)—The Board proposed to revise this section by deleting line items 1f through 1f.2 as the timeframe is no longer relevant. The Board did not receive any comments on this section. This section will be implemented as proposed and subsequent line items will be renumbered.

General-use prepaid card exemption: Exempt vs. non-exempt general-use prepaid card transactions and General-use prepaid card exemption: Interchange fees on exempt vs. non-exempt card transactions—The Board proposed to revise line items 1g and 2i by requiring networks to allocate volume, value, and interchange fee revenue for exempt general-use prepaid card transactions between transactions using prepaid cards issued by exempt (small) issuers (adding line items 1g.1.1 and 2i.1.1) and transactions using prepaid cards issued by non-exempt issuers (adding line items 1g.1.2. and 2i.1.2). Currently, payment card networks are required to allocate volume and value of general-use prepaid card transactions, and associated interchange fee revenue, between exempt and non-exempt general-use prepaid card transactions and interchange fees. Under Regulation II, a general-use prepaid card transaction may be exempt from the interchange fee standards either because the card is issued by an issuer that qualifies for the small issuer exemption or because the card qualifies for the prepaid card exemption, irrespective of the size of the issuer. The proposed break out of these data would allow the Board to determine which type of exemption applies to each exempt transaction, thus improving interpretation of these data. The Board did not receive any comments on this section. This section will be implemented as proposed.

Small issuer exemption: Interchange fees on transactions using card of exempt vs. non-exempt issuers—The

Board proposed to revise this section by deleting line items *2g.1, All interchange fees paid to issuers between January 1, 2011–September 30, 2011,* as these timeframes are no longer relevant. The Board did not receive any comments on this section. This section will be implemented as proposed and subsequent line items will be renumbered.

Small issuer exemption: Network fees received from exempt vs. non-exempt issuers—The Board proposed to revise this section by deleting line items 3c.1, *All network fees received from issuers that settled between January 1, 2011–September 30, 2011,* and line items 3d through 3d.2, as these timeframes are no longer relevant. The Board did not receive any comments on this section. This section will be implemented as proposed and subsequent line items will be renumbered.

Small issuer exemption: Payments and incentives paid to exempt vs. non-exempt issuers—The Board proposed to revise this section by deleting line items 4c.1, *All payment and incentives paid to issuers between January 1, 2011–September 30, 2011,* and line items 4d through 4d.2, as these timeframes are no longer relevant. The Board did not receive any comments on this section. This section will be implemented as proposed and subsequent line items will be renumbered.

General Instructions

Response Confidentiality and Burden—The Board proposed to revise the confidentiality statement to indicate that the Board may release some information identified by network by total, or as an average: the percent of total number and value of transactions for exempt and non-exempt issuers; and the average transaction value for exempt, non-exempt, and all issuers. To date, the Board has only published this information in the aggregate across networks. One network commenter expressed concern regarding the confidentiality of survey data, stating that the Board's current justification does not constitute a public policy rationale that justifies the publication of additional non-public and proprietary data. This information can already be approximated at the network level from the information the Board currently releases on the network's average interchange fees. The precise network-specific information may be useful to issuers (both exempt and non-exempt) and merchants in choosing payment card networks in which to participate and to policymakers in assessing the effect of Regulation II on the level of interchange fees received by exempt and non-exempt issuers over time. For example, the disclosure of the percent of total number and value of transactions for exempt and non-exempt issuers may assist exempt issuers in identifying networks that may have operations focused on those issuers. For these reasons, the revisions to the confidentiality statement will be implemented as proposed.

Board of Governors of the Federal Reserve System, January 9, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–00489 Filed 1–14–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 112 3095]

GeneLink, Inc.; foru™ International Corporation; Analysis of Proposed Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreements.

SUMMARY: The consent agreements in this matter settle alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis of Proposed Consent Orders to Aid Public Comment describes both the allegations in the draft complaints and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before February 6, 2014.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/genelinkconsent or https://ftcpublic.commentworks.com/ftc/forutmconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Genelink, Inc.-Consent Agreement; File No. 112–3095'' or ''foru™ International Corporation-Consent Agreement; File No. 112–3095'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/genelinkconsent* or *https://ftcpublic.commentworks.com/ftc/forutmconsent https://ftcpublic.commentworks.com/ftc/fidelitynationalconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Carolyn Hann, 202–326–2745, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR § 2.34, notice is hereby given that the above-captioned consent agreements containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreements, and the allegations in the complaints. An electronic copy of the full text of the consent agreement packages can be obtained from the FTC Home Page (for January 7, 2014), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 6, 2014. Write ''Genelink, Inc.-Consent Agreement; File No. 112–3095'' or ''foru™ International Corporation-Consent Agreement; File No. 112–3095'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or

financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

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

If you file your comment on paper, write ''Genelink, Inc.-Consent Agreement; File No. 112–3095'' or ''foru™ International Corporation-Consent Agreement; File No. 112–3095'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before February 6, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

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

Analysis of Proposed Consent Orders To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, Agreements Containing Consent Orders from GeneLink, Inc., also doing business as GeneLink Biosciences, Inc. (''GeneLink'') and foru™ International Corporation, formerly known as GeneWize Life Sciences, Inc. (''foru™''). The proposed consent orders have been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreements and the comments received, and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

These matters involve the advertising and promotion of purported genetically customized nutritional supplements and skin repair serum products, which GeneLink and its co-respondent and former subsidiary, foru™ sold through a multi-level marketing (''MLM'') network. According to the FTC complaints, GeneLink and foru™ represented that genetic disadvantages identified through the companies' DNA assessments are scientifically proven to be mitigated by or compensated for with the companies' nutritional supplements. The complaints allege that this claim is false and thus violates the FTC Act. The FTC complaints also charge that the companies represented that these custom-blended nutritional supplements: (1) Effectively compensate for genetic disadvantages identified by respondents' DNA assessments, thereby reducing an individual's risk of impaired health or illness, and (2) treat or mitigate diabetes, heart disease, arthritis, and insomnia. The complaints allege that these claims are unsubstantiated and thus violate the FTC Act.

With regard to the purported genetically customized skin repair serum products, the FTC complaints charge that the companies represented that the products are scientifically proven to reduce the appearance of wrinkles and improve skin firmness; and enhance or diminish aging predispositions, including collagen breakdown, sun damage, and oxidative stress. The complaints allege that these claims are false and thus violate the FTC Act.

Additionally, the complaints allege that the companies provided advertisements and promotional materials to their MLM affiliates for use in the marketing and sale of their genetically customized nutritional supplements and skin repair serum products. The complaints allege that the companies thereby provided their affiliates with means and instrumentalities to further the deceptive and misleading acts and practices at issue.

Finally, the FTC complaints allege that the companies' acts and practices related to data security were unfair and deceptive. The companies collected personal information, including names, addresses, email addresses, telephone numbers, dates of birth, Social Security numbers, bank account numbers, credit card account numbers, and genetic information. They represented to consumers that they implemented reasonable and appropriate measures to secure consumers' personal information. The complaints allege the companies failed to provide reasonable and appropriate security for consumers' personal information. According to the complaints, among other things, the companies:

(1) Failed to implement reasonable policies and procedures to protect the security of consumers' personal information collected and maintained by respondents;

(2) Failed to require by contract that service providers implement and maintain appropriate safeguards for consumers' personal information;

(3) Failed to provide reasonable oversight of service providers, for instance by requiring that service providers implement simple, low-cost, and readily available defenses to protect consumers' personal information;

(4) Created unnecessary risks to personal information by: (a) Maintaining consumers' personal information in clear text; (b) providing respondents' employees, regardless of business need, with access to consumers' complete personal information; (c) providing service providers with access to consumers' complete personal information, rather than, for example, to fictitious data sets, to develop new applications; (d) failing to perform assessments to identify reasonably foreseeable risks to the security, integrity, and confidentiality of consumers' personal information on respondents' network; and (e) providing a service provider that needed only certain categories of information for its business purposes with access to consumers' complete personal information; and

(5) Did not use readily available security measures to limit wireless access to their network.

The complaints further allege respondents' failure to provide reasonable oversight of service providers and respondents' failure to limit employees' access to consumers' personal information resulted in a vulnerability that, until respondents were alerted by an affiliate, provided that affiliate with the ability to access the personal information of every foru™ customer and affiliate in respondents' customer relationship management database. The personal information that could have been accessed included consumers' names, addresses, email addresses, telephone numbers, dates of birth, and Social Security numbers. The complaints allege that respondents' practices were likely to cause substantial injury to consumers, were not reasonably avoidable by consumers, and were not outweighed by countervailing benefits to consumers or competition.

The proposed consent orders contain provisions designed to prevent GeneLink and foru™ from engaging in similar acts or practices in the future. The orders cover representations made in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product, in or affecting commerce. First, the orders define Covered Product as any drug, food, or cosmetic that is: (a) Customized or personalized for a consumer based on that consumer's DNA or other genetic assessment, including, but not limited to, the nutritional supplement and skin repair serum products at issue; or (b) promoted to modulate the effect of genes. Second, the orders define Essentially Equivalent Product to mean a product that contains the identical ingredients, except for inactives, in the same form, dosage, and route of administration as the Covered Product; provided that the Covered Product may contain additional ingredients if reliable scientific evidence generally accepted by experts in the field demonstrates that the amount and combination of additional ingredients is unlikely to impede or inhibit the effectiveness of the ingredients in the Essentially Equivalent Product. Third, the orders define adequate and well-controlled human clinical study to mean a human clinical study that is randomized and adequately controlled; utilizes valid end points generally recognized by experts in the relevant disease field; yields statistically significant between-group results; and is conducted by persons qualified by training and experience to conduct such a study. This definition requires that the study be double-blind and placebo-controlled; however, this definition provides an exception for any study of a conventional food if the respondent can demonstrate that placebo control or blinding cannot be effectively implemented given the nature of the intervention. Finally, the orders define Covered Assessment as any genetic test or assessment, including but not limited to, the companies' current DNA assessments. With respect to information security, the proposed orders closely follows the Commission's previous data security orders.

Part I of the consent orders is designed to address GeneLink's and foru™'s specific claims about diseases and serious health conditions by prohibiting the companies from making any representation that any Covered Product is effective in the diagnosis, cure, mitigation, treatment, or prevention of any disease, including any representation that such product will treat, prevent, mitigate, or reduce the risk of diabetes, heart disease, arthritis, or insomnia, unless such representation is non-misleading and, at the time the representation is made, GeneLink and foru™ possess and rely upon competent and reliable scientific evidence, at least two adequate and well-controlled human clinical studies of the Covered Product, or of an Essentially Equivalent Product, conducted by different researchers, independently of each other, that conform to acceptable designs and protocols and whose results, when considered in light of the entire body of relevant and reliable scientific evidence, are sufficient to substantiate that the representation is true. Further, claims that a Covered Product effectively treats or prevents a disease in persons with a particular genetic variation, must be conducted on subjects with that genetic variation because persons with the particular genetic variation may respond differently to the Covered Product than do persons without the variation. The substantiation standard imposed under this Part is reasonably necessary to ensure that any future claims about diseases and serious health conditions made by the named respondents are not deceptive; this standard does not necessarily apply to firms not under order.

Part II of the consent orders prohibits GeneLink and foru™ from making any representation about the health benefits, performance, or efficacy of any Covered Product or any Covered Assessment, unless the representation is non-misleading, and proposed respondents rely on competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the claim is true.

Part III of the consent orders addresses claims regarding scientific research. It prohibits GeneLink and foru™, with regard to any Covered Product or any Covered Assessment, from misrepresenting the existence, contents, validity, results, or conclusions of any test, study, or research. This Part also prohibits GeneLink and foru™ from representing that the benefits of any Covered Product or any Covered Assessment are scientifically proven.

Part IV of the consent orders provides that nothing in the orders shall prohibit GeneLink and foru™ from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the FDA pursuant to the Nutrition Labeling and Education Act of 1990, or that is permitted under sections 303–304 of the Food and Drug Administration Modernization Act of 1997, which, under certain circumstances, permit claims about health and nutrient content as long as those claims are based on current, published, authoritative statements from certain federal scientific bodies (e.g., National Institutes of Health, Centers for Disease Control) or from the National Academy of Sciences.

Part V of the consent orders prohibits GeneLink and foru™ from providing any person or entity with means and instrumentalities that contain any representations prohibited under Parts I through III of the orders.

Part VI of the consent orders requires GeneLink and foru™ to establish, implement, and maintain programs to monitor its affiliates' compliance with Parts I through III of the proposed orders. In particular, for GeneLink's and foru™'s top 50 revenue-generating affiliates, on at least a monthly basis, the companies must monitor and review such affiliates' Web sites and also conduct online monitoring and review of the Internet for any representations by such affiliates. This Part also requires GeneLink and foru™ to terminate and withhold payment from an affiliate within seven days of reasonably concluding that the affiliate made representations that the affiliate knew or should have known violated Parts I, II, or III of the order. Finally, this Part requires GeneLink and foru™ to create, maintain, and make available to FTC

representatives within 14 days of receipt of a written request, reports sufficient to show compliance with this Part.

Part VII of the consent orders prohibits GeneLink and foru™ from misrepresenting the extent to which they maintain and protect the privacy, confidentiality, security, or integrity of any personal information collected from or about consumers.

Part VIII of the consent orders requires GeneLink and foru™ to establish and maintain a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers. The security program must contain administrative, technical, and physical safeguards appropriate to GeneLink's and foru™'s size and complexity, nature and scope of its activities, and the sensitivity of the information collected from or about consumers. Specifically, the proposed orders require GeneLink and foru™ to:

- Designate an employee or employees to coordinate and be accountable for the information security program;
- identify material internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks;
- design and implement reasonable safeguards to control the risks identified through risk assessment, and regularly test or monitor the effectiveness of the safeguards' key controls, systems, and procedures;
- develop and use reasonable steps to select and retain service providers capable of appropriately safeguarding personal information they receive from GeneLink and foru™, and require service providers by contract to implement and maintain appropriate safeguards; and
- evaluate and adjust its information security program in light of the results of testing and monitoring, any material changes to operations or business arrangement, or any other circumstances that it knows or has reason to know may have a material impact on its information security program.

Part IX of the consent orders requires GeneLink and foru™ to obtain biennial independent assessments of their security programs for 20 years.

Part X of the consent orders requires dissemination of the orders to officers, to Scientific Advisory Board members, to licensees, and to employees having managerial responsibilities with respect to the subject matter of the orders.

Part XI of the consent orders requires GeneLink and foru™ to keep, for a prescribed period, copies of all materials relied upon to prepare the assessment and any other materials relating to GeneLink's and foru™'s compliance with Parts VIII and IX, as well as relevant advertisements and promotional materials, including marketing and training materials distributed to licensees and affiliates.

Parts XII and XIII of the consent orders requires GeneLink and foru™ to notify the Commission of changes in corporate structure that might affect compliance obligations under the orders, and to file compliance reports. Part XIV provides that the orders will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreements and proposed orders or to modify their terms in any way.

By direction of the Commission, Commissioner Ohlhausen dissenting.

Janice Podoll Frankle,

Acting Secretary.

Statement of Chairwoman Edith Ramirez and Commissioner Julie Brill

We write to explain our support for the remedy imposed against respondents GeneLink, Inc. and foru International Corporation, which we believe to be amply supported by the relevant facts. In this, as in all of the Commission's advertising actions alleging deceptive health claims, the Commission has called for, as proposed relief, a level of substantiation that is grounded in concrete scientific evidence and reasonably tailored to ensure that the conduct giving rise to the violation ceases and does not recur, among other important remedial goals. In our view, the remedy adopted here accomplishes just that, without imposing undue costs on marketers or consumers more generally.

Respondents market and sell genetically customized nutritional supplements and topical skin products. As described in the complaint, this enforcement action stems from claims made by respondents in promotional materials and through testimonials that their products compensate for consumers' ''genetic disadvantages'' and cure or treat serious conditions such as diabetes, heart disease, and arthritis. In a newsletter, for example, respondents represented their products had cured ''a serious diabetic and cardiac patient,'' and an affiliate's Web site stated that the products produced ''improvements in everything from blood pressure to eczema to hormonal issues to arthritis.'' [1] The Commission alleges that respondents lacked adequate substantiation for these claims and that they falsely represented that the products' benefits were scientifically proven.

Disease treatment claims such as these require a rigorous level of substantiation. Based on evidence from genetics and nutritional genomics experts, the Commission has reason to believe that well-controlled human clinical trials (referred to here as ''randomized controlled trials'' or ''RCTs'') are needed to substantiate respondents' claims and that the studies relied on by respondents to back up their claims fall far short of this evidence. Because respondents lacked even one valid RCT for their products, it was unnecessary for the Commission to decide, for purposes of assessing liability, the precise number of RCTs needed to substantiate their claims.

In fashioning an appropriate remedy, however, we are requiring that respondents have at least two RCTs before making disease prevention, treatment, and diagnosis claims. We have the discretion to issue orders containing ''fencing-in'' provisions—''provisions . . . that are broader than the conduct that is declared unlawful.'' *Telebrands Corp.* v. *FTC,* 457 F.3d 354, 357 n.5 (4th Cir. 2006) (citation and internal quotation marks omitted). Here, we believe that the two-RCT mandate is appropriate and reasonably crafted to prevent the recurrence of respondents' alleged unlawful conduct. This requirement conforms to well-recognized scientific principles favoring replication of study results to establish a causal relationship between exposure to a substance and a health outcome. *See, e.g., Thompson Med. Co.,* 104 F.T.C. 648, 720–21, 825 (1984) (requiring two RCTs to support claims of arthritis pain relief and thereby affirming determination that ''[r]eplication is necessary because there is a potential for systematic bias and random error in any clinical trial''), *aff'd,* 791 F.2d 189 (D.C. Cir. 1986).[2] It also provides clear rules for

[1] Compl. Exs. G and H.

[2] *See also* Geoffrey Marczyk et al., Essentials of Research Design and Methodology 15–16 (2005) (''The importance of replication in research cannot be overstated. Replication serves several integral purposes, including establishing the reliability (*i.e.,* consistency) of the research study's findings and determining . . . whether the results of the original study are *generalizable* to other groups of research participants.'').

respondents, facilitating the setting of future research and marketing agendas, and preserves law enforcement resources by minimizing future argument over the quantity and quality of substantiation needed for the most serious health claims about respondents' products. Moreover, the deceptive claims alleged in the complaint are the type of significant violations of law for which fencing-in relief is more than justified as an additional safeguard against potential recidivism. *See, e.g., id.* at 834 (ruling that deceptive health claims about topical analgesic for arthritis pain warranted fencing-in, and noting that the seriousness of the violations was ''affected by the fact that consumers could not readily judge the truth or falsity of the claims'').

While not taking issue with respondents' liability as alleged in the Commission's complaint, Commissioner Ohlhausen objects to the Commission's decision to require, as a remedial matter, that respondents have at least two RCTs before representing that their genetic products can cure, treat, diagnose, or prevent a disease. In addition to arguing that the two-RCT requirement is ''unduly high,'' Commissioner Ohlhausen expresses concern that these and other recent Commission orders may lead advertisers in general to believe that they too must invariably have two RCTs to substantiate health and disease claims for a variety of products, leading them to forgo otherwise adequately substantiated claims and depriving consumers of potentially useful information.[3] We respectfully disagree.

There is nothing in our action today that amounts to the imposition of a ''de facto two-RCT standard on health- and disease-related claims.''[4] In this and other recent enforcement actions, the Commission has consistently adhered to its longstanding view that the proper level of substantiation for establishing liability is a case-specific factual determination as to what constitutes competent and reliable scientific evidence for the advertising claims at issue.[5] The same fact-specific approach has guided the Commission's remedial standards. Recent Commission consent orders concerning different types of health claims have variously required two RCTs,[6] one RCT,[7] or more generally defined ''competent and reliable scientific evidence.''[8] Against this backdrop, we are not persuaded that by requiring two RCTs as a remedial matter here, the Commission will create a misperception among advertisers about the substantiation standards that govern liability for deceptive advertising.[9] However, to the extent other marketers look to our orders for signals as to the type of backing required for disease treatment claims, we prefer that they understand that serious claims like those made by respondents must have hard science behind them.

We also disagree that the proposed remedy will deny consumers access to useful information about new areas of science. The value of information naturally depends on its accuracy.[10] As the D.C. Circuit has emphasized, ''misleading advertising does not serve, and, in fact, disserves, th[e] interest'' of ''consumers and society . . . in the free flow of commercial information.'' *FTC* v. *Brown & Williamson Tobacco Corp.,* 778 F.2d 35, 43 (D.C. Cir. 1985) (citation and internal quotation marks omitted). If respondents wish to rely on emerging science, they can qualify their claims accordingly. Properly qualified claims are lawful and permissible under our proposed orders. *See* Proposed Consent Orders, Part III.

The fact that the ingredients in respondents' products are safe also does not alter our conclusion. Consumers who rely on respondents' claims may forgo important diet and lifestyle changes that are known to reduce the risk of diabetes, heart disease, or arthritis. Or they may forgo treatments that, unlike respondents' products, have been demonstrated to be effective. In addition, respondents charge a premium, over $100 per month, for their customized products. Consumers, therefore, may be deceived both to their medical and economic detriment when a safe product provides an ineffective treatment. *See FTC* v. *QT, Inc.,* 512 F.3d 858, 863 (7th Cir. 2008) (safe but deceptively advertised treatment ''will lead some consumers to avoid treatments that cost less and do more; the lies will lead others to pay too much for [treatment] or otherwise interfere with the matching of remedies to medical conditions''); *Pfizer Inc.,* 81 F.T.C. 23, 62 (1972) (''A consumer should not be compelled to enter into an economic gamble to determine whether a product will or will not perform as represented.''). Unsubstantiated disease claims also harm honest competitors that expend considerable resources on studies or analyses of the existing science and conform their advertising claims accordingly. Allowing companies to rely on ''emerging'' evidence to support disease claims merely because the products in question are safe would risk a ''race to the bottom''—the proliferation of progressively more egregious disease claims, which would harm both

[3] Statement of Commissioner Maureen K. Ohlhausen, Dissenting in Part and Concurring in Part [hereinafter Ohlhausen Statement] at 1. In her Statement, Commissioner Ohlhausen also references various weight-loss related enforcement actions announced today by the Commission, including *FTC* v. *Sensa Products, LLC.* Her objections, however, center on the remedy imposed in this matter.

[4] Ohlhausen Statement at 3.

[5] *See, e.g., Bristol Meyers Co.,* 102 F.T.C. 21, 332–38 (1983), *aff'd,* 738 F.2d 554 (2d Cir. 1984); FTC, Dietary Supplements: An Advertising Guide for Industry 10 (Apr. 2001) [hereinafter Dietary Supplements Advertising Guide] (''When no specific claim about the level of support is made, the evidence needed depends on the nature of the claim. A guiding principle for determining the amount and type of evidence that will be sufficient is what experts in the relevant area of study would generally consider to be adequate.'').

[6] *See, e.g., FTC* v. *Skechers U.S.A., Inc.,* No. 1:12–cv–01214–JG (N.D. Ohio July 12, 2012) (prohibiting, as a remedial matter, weight loss claims without two RCTs); *FTC* v. *Labra,* No. 11 C 2485 (N.D. Ill. Jan. 11, 2012) (same); *FTC* v. *Iovate Health Scis.USA, Inc.,* No. 10–cv–587 (W.D.N.Y. July 29, 2010) (same); *Nestlé Healthcare Nutrition, Inc.,* 151 F.T.C. 1 (2011) (requiring two RCTs for claims that any probiotic drink or certain nutritionally complete drinks reduce the duration of acute diarrhea in children or absences from daycare or school due to illness).

[7] *See, e.g., FTC* v. *Skechers U.S.A., Inc.,* No. 1:12–cv–01214–JG (N.D. Ohio July 12, 2012) (prohibiting muscle strengthening claims for any footwear product without one RCT); *FTC v. Reebok Int'l Ltd.,* No. 1:11–cv–02046–DCN (N.D. Ohio Sept. 29, 2011) (same).

[8] *See, e.g., NBTY, Inc.,* 151 F.T.C. 201 (2011) (requiring marketer of vitamins to possess ''competent and reliable scientific evidence'' for any claim about the health benefits, performance, or efficacy of any product).

[9] Moreover, as Commissioner Ohlhausen notes, Ohlhausen Statement at 2 n.7, there may be some instances in which the medical community would not require RCTs to demonstrate that a substance treats, prevents, or reduces the risk of a disease. *See, e.g.,* Dietary Supplements Advertising Guide, *supra* note 5, at 11 (explaining that an appropriately qualified claim based on epidemiological evidence would be permitted where ''[a] clinical intervention trial would be very difficult and costly to conduct,'' ''experts in the field generally consider epidemiological evidence to be adequate'' and there is no ''stronger body of contrary evidence''). But, contrary to Commissioner Ohlhausen's contention, the link between folic acid and neural tube birth defects was substantiated using a combination of RCTs and observational epidemiological evidence, as indicated by the articles she cites. *See, e.g.,* Walter C. Willett, *Folic Acid and Neural Tube Defect: Can't We Come to Closure?,* 82 Am. J. Pub. Health 666, 667 (1992).

[10] In some instances, ''emerging'' scientific evidence has been subsequently contradicted by further research, leading to consumer confusion and potential physical and financial harm. *See, e.g.,* Eric A. Klein et al., *Vitamin E and the Risk of Prostate Cancer, The Selenium and Vitamin E Cancer Prevention Trial (SELECT),* 306 *J. Am. Med. Ass'n* 1549, 1551 (2011) (reporting that a 2008 randomized, placebo-controlled prospective clinical trial of over 35,000 men contradicted ''considerable preclinical and epidemiological evidence that selenium and vitamin E may reduce prostate cancer risk,'' and that follow-up observational data from 2011 showed a statistically significant *increase* in prostate cancer in the vitamin E group over placebo).

legitimate competitors and consumers in the process.

Finally, Commissioner Ohlhausen argues that requiring the RCTs to be conducted by different researchers working independently of each other imposes undue burdens in the absence of evidence that a defendant has fabricated or interfered with a study or its results.[11] This requirement is an important safeguard that lessens the likelihood that researcher bias will affect the outcome of a study and helps ensure that the results are replicable.[12]

In short, we believe the relief obtained by the Commission in this settlement is warranted and strikes the right balance between the need for accuracy in health-related advertising claims and the burden placed on respondents.

Statement of Commissioner Maureen K. Ohlhausen Dissenting In Part and Concurring In Part

I strongly support the Commission's enforcement efforts against false and misleading advertisements and therefore have voted in favor of the consent agreements with Sensa Products, LLC; HCG Diet Direct, LLC; L'Occitane, Inc.; and LeanSpa, LLC, despite having some concerns about the scope of the relief in several of these weight-loss related matters. I voted against the consent agreements in the matter of GeneLink, Inc. and foru International Corporation, however, because they impose an unduly high standard of at least two randomized controlled trials (or RCTs) to substantiate *any* disease-related claims, not just weight-loss claims. Adopting a one-size-fits-all approach to substantiation by imposing such rigorous and possibly costly requirements for such a broad category of health- and disease-related claims [1] may, in many instances, prevent useful information from reaching consumers in the marketplace and ultimately make consumers worse off.[2]

The Commission has traditionally applied the *Pfizer* [3] factors to determine the appropriate level of substantiation required for a specific advertising claim. These factors examine the nature of the claim and the type of product it covers, the consequences of a false claim, the benefits of a truthful claim, the cost of developing the required substantiation for the claim, and the amount of substantiation experts in the field believe is reasonable for such a claim.[4] One of the goals of the *Pfizer* analysis is to balance the value of greater certainty of information about a product's claimed attributes with the risks of both the product itself and the suppression of potentially useful information about it. Under such an analysis, the burden for substantiation for health- or disease-related claims about a safe product, such as a food, for example, should be lower than the burdens imposed on drugs and biologics because consumers face lower risks when consuming the safe product.[5]

Recently, however, Commission orders, including the ones in the matter of GeneLink and foru International, seem to have adopted two RCTs as a standard requirement for health- and disease-related claims for a wide array of products.[6] RCTs can be difficult to conduct and are often costly and time-consuming relative to other types of testing, particularly for diseases that develop over a long period of time or complex health conditions. Requiring RCTs may be appropriate in some circumstances, such as where use of a product carries some significant risk, or where the costs of conducting RCTs may be relatively low, such as for conditions whose development or amelioration can be observed over a short time period. Thus, I am willing to support the order requirement of two RCTs for short-term weight loss claims in the Sensa, HCG Diet Direct, L'Occitane, and LeanSpa matters because such studies can be conducted in a relatively short amount of time at a lower cost than for many other health claims. My concern with GeneLink and foru International and the series of similar orders is that they might be read to imply that two RCTs are required to substantiate any health- or disease-related claims, even for relatively-safe products. It seems likely that producers may forgo making such claims about these kinds of products, even if they may otherwise be adequately supported by evidence that does not comprise two RCTs.[7]

Although raising the requirement for both the number and the rigor of studies required for substantiation for all health- or disease-related claims may increase confidence in those claims, the correspondingly increased burdens in time and money in conducting such studies may suppress information that would, on balance, benefit consumers. If we demand too high a level of substantiation in pursuit of certainty, we risk losing the benefits to consumers of having access to information about emerging areas of science and the corresponding pressure on firms to compete on the health features of their products. In my view, the Commission should apply the *Pfizer* balancing test in

[11] Ohlhausen Statement at 2–3.

[12] Commissioner Ohlhausen also objects to the Part I requirement that testing be conducted on the product about which the advertising claim is made or an ''essentially equivalent product,'' arguing that the order should authorize ''claims regarding individual ingredients in combined products as long as claims for each ingredient are properly substantiated and there are no known interactions.'' Ohlhausen Statement at 3. In fact, the orders permit that very thing. If there is reliable evidence that the additional ingredients will not interact with the tested product in a way that impacts efficacy, the orders do not require testing of the combined product. *See* Proposed Consent Orders at 3 (defining ''Essentially Equivalent Product'' to permit additional ingredients, beyond those in the tested product, if ''reliable scientific evidence generally accepted by experts in the field demonstrates that the amount and combination of additional ingredients [in the respondent's product] is unlikely to impede or inhibit the effectiveness of the ingredients in the [tested product]'').

[1] This provision may apply quite broadly in practice given the Commission majority's conclusion in our *POM Wonderful* decision that many of the claims involving the continued healthy functioning of the body also conveyed implied disease-related claims. *See POM Wonderful, LLC,* No. 9344, 2013 WL 268926 (F.T.C. Jan. 16, 2013).

[2] To be clear, however, I am not advocating in favor of permitting ''unsubstantiated disease claims,'' as suggested in the statement of Chairwoman Ramirez and Commissioner Brill. Rather, I am suggesting that consumers would on balance be better off if we clarified that our requirements permit a variety of health- or disease-related claims about safe products, such as foods or vitamins, to be substantiated by competent and reliable scientific evidence that might not comprise two RCTs.

[3] *Pfizer, Inc.,* 81 F.T.C. 23 (1972).

[4] *Id.* at 91–93; *see also FTC Policy Statement Regarding Advertising Substantiation,* 104 F.T.C. 839 (1984) (appended to *Thompson Med. Co.,* 104 F.T.C. 648, 839 (1984)).

[5] The FDA designates most food ingredients as GRAS (generally recognized as safe). 21 C.F.R. § 170.30. Vitamins and minerals are treated as foods by the FDA and are also GRAS. *See* FDA Guidance for Industry: Frequently Asked Questions about GRAS (Dec. 2004), *available at http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/IngredientsAdditivesGRASPackaging/ucm061846.htm#1.* As a result, food ingredients, vitamins, and minerals can be combined and sold to the public without direct evidence on the particular combination realized in the new product. Many products are made up of several common generic ingredients, for which there is little financial incentive to test individually or to retest in each particular combination.

[6] The orders in this matter include as a Covered Product any food, drug, or cosmetic that is genetically customized or personalized for a consumer or that is promoted to modulate the effect of genes. Other cases requiring two RCTs are *POM Wonderful LLC,* Docket No. 9344 (F.T.C. Jan. 10, 2013) (fruit juice); *Dannon Co., Inc.,* 151 F.T.C. 62 (2011) (yogurt); *Nestlé Healthcare Nutrition, Inc.,* 151 F.T.C. 1 (2011) (food); *FTC* v. *Iovate Health Sci. USA, Inc.,* No. 10–cv–587 (W.D.N.Y. July 29, 2010) (dietary supplement).

[7] Notably, the medical community does not always require RCTs to demonstrate the beneficial effects of medical and other health-related innovations. For example, the recommendation that women of childbearing age take a folic acid supplement to reduce the risk of neural tube birth defects was made without RCT evidence on the relevant population. *See* Walter C. Willett, ''Folic Acid and Neural Tube Defect: Can't We Come to Closure?'' *American Journal of Public Health,* May 1992, Vol. 82, No. 5; Krista S. Crider, Lynn B. Bailey and Robert J. Berry, ''Folic Acid Food Fortification—Its History, Effect, Concerns, and Future Directions,'' *Nutrients* 2011, Vol. 3, 370–384.

a more finely calibrated manner than they have in the GeneLink and foru International orders to avoid imposing ''unduly burdensome restrictions that might chill information useful to consumers in making purchasing decisions.''[8]

In addition, based on the same concerns about imposing unnecessarily burdensome and costly obligations, I do not support a general requirement that all products be tested by different researchers working independently without an indication that the defendant fabricated or otherwise interfered with a study or its results.[9] Where defendants have fabricated results, as our complaint against Sensa alleges, a requirement of independent testing may be appropriate, but a simple failure to have adequate substantiation should not automatically trigger such an obligation. In other cases, where there is some concern about a sponsor or researcher biasing a study, our orders may address this in a less burdensome way by requiring the producer making the disease-related claims to provide the underlying testing data to substantiate its claims, which we can examine for reliability. Similarly, the requirement to test an ''essentially equivalent product,'' which appears to be more rigorous than FDA requirements for food and supplement products, can significantly and unnecessarily increase the costs of substantiation, again potentially depriving consumers of useful information. Instead, Commission orders should clearly allow claims regarding individual ingredients in combined products as long as claims for each ingredient are properly substantiated and there are no known relevant interactions.[10]

It is my hope and recommendation that as we consider future cases involving health- and disease-related claims, the Commission and its staff engage in a further dialogue about our substantiation requirements to discern how best to assess the potential costs and benefits of allowing different types of evidence that might provide a reasonable basis to substantiate such claims. Although I am willing to support liability for failures to have adequate substantiation for health- and disease-related claims under certain circumstances, I am not willing to support a de facto two-RCT standard on health- and disease-related claims for food or other relatively-safe products.

Statement of Commissioner Joshua D. Wright

Today the Commission announces five settlements involving the deceptive marketing of a variety of nutritional and dietary supplements, skincare products, and weight-loss remedies. While the course of business conduct, type of product and particular advertising claim at issue in each case differs, all share one common characteristic—the Commission has alleged that, in the course of advertising their products, each of these defendants has made false or unsubstantiated claims about the treatment of certain medical or health conditions.

Cases that challenge false or unsubstantiated claims—especially those involving serious medical conditions—are an important component of our agency's mission to protect consumers from economic injury. Indeed, the aggregate consumer injury in these particular matters is estimated to be $420 million and these settlement agreements will return approximately $33 million to consumers. I fully support the Commission's efforts to deter deceptive advertising and voted in favor of authorizing these particular settlements.

In crafting remedial relief in these cases, the Commission inevitably faces a tradeoff between deterring deceptive advertising and preserving the benefits to competition and consumers from truthful claims. Tailoring remedial relief—including the level of substantiation required—to the specific claims at issue is in the best interests of consumers.[1] I write today to express some of my views on this issue.

Each of the consent agreements announced today includes injunctive relief provisions requiring the settling parties to satisfy a standard of ''competent and reliable scientific evidence'' before again making the claims at issue. Each consent agreement further defines ''competent and reliable scientific evidence'' as requiring, among other things, two adequate and well-controlled human clinical studies (randomized controlled trials or RCTs) of the product. I encourage the Commission to explore more fully whether the articulation and scope of injunctive relief in these and similar settlements strikes the right balance between deterring deceptive advertising and preserving for consumers the benefits of truthful claims. The optimal amount and type of evidence to substantiate a future claim will vary from case to case. Similarly, a fact-specific inquiry may justify specially crafted injunctive relief in certain cases, such as bans, performance bonds or document retention requirements for underlying study data. I look forward to working with my fellow Commissioners to continue to examine and evaluate our formulation of the competent and reliable scientific evidence standard, as well as the ancillary injunctive provisions in consent agreements, in order to best protect consumers from the costs imposed upon them by deceptive advertising while encouraging competition and truthful advertising that benefits consumers.

[FR Doc. 2014–00643 Filed 1–14–14; 8:45 am]

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[8] FTC Staff Comment Before the Food and Drug Administration In the Matter of Assessing Consumer Perceptions of Health Claims, Docket No. 2005N–0413 (2006), *available at http://www.ftc.gov/be/V060005.pdf.*

[9] The FDA does not require independent testing for clinical investigational studies of medical products, including human drug and biological products or medical devices, and it permits sponsors to use a variety of approaches to fulfill their responsibilities for monitoring. *See* FDA Guidance for Industry Oversight of Clinical Investigations—A Risk-Based Approach to Monitoring (Aug. 2013), *available at http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM269919.pdf.*

[10] Although the statement by Chairwoman Ramirez and Commissioner Brill asserts that the orders in GeneLink and foru International permit claims for individual ingredients in combined products as long as the claims for each ingredient are properly substantiated and there are no known interactions, the orders actually require that ''reliable scientific evidence generally accepted by experts in the field demonstrate that the amount and *combination of additional ingredients* is unlikely to impede or inhibit the effectiveness of the ingredients in the Essentially Equivalent Product.'' Decision and Order at 2, *In the Matter of GeneLink, Inc.* FTC File No. 112 3095 (emphasis added). My point is that the FDA does not require direct evidence regarding *combinations of individual ingredients deemed GRAS* but the order on its face requires scientific evidence demonstrating the effect of such combinations.

[1] The Commission's determination of whether an advertiser has adequate substantiation in the first instance depends upon ''a number of factors relevant to the benefits and costs of substantiating a particular claim. These factors include: The type of claim, the product, the consequences of a false claim, the benefits of a truthful claim, the cost of developing substantiation for the claim, and the amount of substantiation experts in the field believe is reasonable.'' FTC Policy Statement Regarding Advertising Substantiation, appended to *Thompson Medical Co.,* 104 F.T.C. 648, 839 (1984), *aff'd,* 791 F.2d 189 (D.C. Cir. 1986), *cert. denied,* 479 U.S. 1086 (1987). Formulating the required level of substantiation for injunctive relief should necessarily be grounded in the factors set forth in this policy statement, although additional considerations might also be relevant.

FEDERAL TRADE COMMISSION

[File No. 122 3115]

L'Occitane, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before February 6, 2014.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/loccitaneconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''L'Occitane, Inc.—Consent Agreement; File No. 122 3115'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/fidelitynationalconsent https://ftcpublic.commentworks.com/ftc/loccitaneconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Matthew D. Gold, Federal Trade Commission Western Region, (415–848–5100), 901 Market Street, Suite 570 San Francisco, CA 94103.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 7, 2014), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 6, 2014. Write ''L'Occitane, Inc.—Consent Agreement; File No. 122 3115'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

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

If you file your comment on paper, write ''L'Occitane, Inc.—Consent Agreement; File No. 122 3115'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before February 6, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order from L'Occitane, Inc. (''respondent''). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves the advertising, marketing, and sale of ''Almond Beautiful Shape'' and ''Almond Shaping Delight'' (collectively, ''the almond products'') by respondent. Respondent has marketed the almond products to consumers through its retail stores and Web site, and through third-party retail outlets.

The almond products are skin creams that contain almond extracts and other ingredients. According to the FTC complaint, respondent promoted the almond products as able to slim and reshape the body.

Specifically, the FTC complaint alleges that respondent represented, in various advertisements, that topical use of Almond Beautiful Shape trims 1.3

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

inches from the user's thighs in just four weeks; topical use of Almond Beautiful Shape significantly slims the user's thighs and buttocks; topical use of Almond Beautiful Shape significantly reduces cellulite; and topical use of Almond Shaping Delight significantly slims the body in just four weeks. The complaint alleges that these claims are unsubstantiated and thus violate the FTC Act. The complaint also alleges that respondent represented, in various advertisements, that scientific tests prove that topical use of Almond Beautiful Shape trims 1.3 inches from the user's thighs in just four weeks; scientific tests prove that topical use of Almond Beautiful Shape significantly reduces cellulite; and scientific tests prove that Almond Shaping Delight significantly slims the body in just four weeks. The complaint alleges that these claims are false and thus violate the FTC Act.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future. Specifically, Part I prohibits respondent from claiming that the almond products or any other topically applied product causes substantial weight or fat loss or a substantial reduction in body size. Part I of the order is designed to fence in respondent by ensuring that extreme, scientifically unfeasible claims will not be made in the future.

Part II addresses the slimming claims at issue in this matter. It covers any representation, other than representations covered under Part I, that a drug or cosmetic causes weight or fat loss or a reduction in body size. Part II prohibits respondent from making such representations unless the representation is non-misleading, and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates that the representation is true. For purposes of Part II, the proposed order defines ''competent and reliable scientific evidence'' as at least two randomized, double-blind, placebo-controlled human clinical studies that are conducted by independent, qualified researchers and that conform to acceptable designs and protocols, and whose results, when considered in light of the entire body of relevant and reliable scientific evidence, are sufficient to substantiate that the representation is true.

Part III of the proposed order prohibits respondent from making any representation, other than representations covered under Parts I or II, that use of a drug or cosmetic reduces or eliminates cellulite or affects body fat or weight, unless the representation is non-misleading, and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. For purposes of Part III, the proposed order defines ''competent and reliable scientific evidence'' as tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons, and that are generally accepted in the profession to yield accurate and reliable results.

Part IV of the proposed order addresses the allegedly false claims that scientific tests prove that topical use of Almond Beautiful Shape trims 1.3 inches from the user's thighs in just four weeks; scientific tests prove that topical use of Almond Beautiful Shape significantly reduces cellulite; and scientific tests prove that Almond Shaping Delight significantly slims the body in just four weeks. Part IV prohibits respondent, when advertising any product, from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research, or misrepresenting that the benefits of the product are scientifically proven.

Part V of the proposed order states that the order does not prohibit respondent from making representations for any drug that are permitted in labeling for that drug under any tentative or final standard promulgated by the Food and Drug Administration (''FDA''), or under any new drug application approved by the FDA. This part of the proposed order also states that the order does not prohibit respondent from making representations for any product that are specifically permitted in labeling for that product by regulations issued by the FDA under the Nutrition Labeling and Education Act of 1990.

Part VII of the proposed order requires respondent to pay four hundred and fifty thousand dollars ($450,000) to the Commission to be used for equitable relief, including restitution, and any attendant expenses for the administration of such equitable relief. To facilitate the payment of redress, Part VI of the proposed order requires L'Occitane to provide to the Commission a searchable electronic file containing the name and contact information of all consumers who purchased the almond products from March 19, 2012 through the date of entry of the order.

Parts VIII, IX, X, and XI of the proposed order require respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to its personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and to file compliance reports with the Commission. Part XII provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

Statement of Chairwoman Edith Ramirez and Commissioner Julie Brill

We write to explain our support for the remedy imposed against respondents GeneLink, Inc. and foru International Corporation, which we believe to be amply supported by the relevant facts. In this, as in all of the Commission's advertising actions alleging deceptive health claims, the Commission has called for, as proposed relief, a level of substantiation that is grounded in concrete scientific evidence and reasonably tailored to ensure that the conduct giving rise to the violation ceases and does not recur, among other important remedial goals. In our view, the remedy adopted here accomplishes just that, without imposing undue costs on marketers or consumers more generally.

Respondents market and sell genetically customized nutritional supplements and topical skin products. As described in the complaint, this enforcement action stems from claims made by respondents in promotional materials and through testimonials that their products compensate for consumers' ''genetic disadvantages'' and cure or treat serious conditions such as diabetes, heart disease, and arthritis. In a newsletter, for example, respondents represented their products had cured ''a serious diabetic and cardiac patient,'' and an affiliate's Web site stated that the products produced ''improvements in everything from blood pressure to eczema to hormonal issues to arthritis.'' [1] The Commission alleges that

[1] Compl. Exs. G and H.

respondents lacked adequate substantiation for these claims and that they falsely represented that the products' benefits were scientifically proven.

Disease treatment claims such as these require a rigorous level of substantiation. Based on evidence from genetics and nutritional genomics experts, the Commission has reason to believe that well-controlled human clinical trials (referred to here as ''randomized controlled trials'' or ''RCTs'') are needed to substantiate respondents' claims and that the studies relied on by respondents to back up their claims fall far short of this evidence. Because respondents lacked even one valid RCT for their products, it was unnecessary for the Commission to decide, for purposes of assessing liability, the precise number of RCTs needed to substantiate their claims.

In fashioning an appropriate remedy, however, we are requiring that respondents have at least two RCTs before making disease prevention, treatment, and diagnosis claims. We have the discretion to issue orders containing ''fencing-in'' provisions—''provisions . . . that are broader than the conduct that is declared unlawful.'' *Telebrands Corp.* v. *FTC,* 457 F.3d 354, 357 n.5 (4th Cir. 2006) (citation and internal quotation marks omitted). Here, we believe that the two-RCT mandate is appropriate and reasonably crafted to prevent the recurrence of respondents' alleged unlawful conduct. This requirement conforms to well-recognized scientific principles favoring replication of study results to establish a causal relationship between exposure to a substance and a health outcome. *See, e.g., Thompson Med. Co.,* 104 F.T.C. 648, 720–21, 825 (1984) (requiring two RCTs to support claims of arthritis pain relief and thereby affirming determination that ''[r]eplication is necessary because there is a potential for systematic bias and random error in any clinical trial''), *aff'd,* 791 F.2d 189 (D.C. Cir. 1986).[2] It also provides clear rules for respondents, facilitating the setting of future research and marketing agendas, and preserves law enforcement resources by minimizing future argument over the quantity and quality of substantiation needed for the most serious health claims about respondents' products. Moreover, the deceptive claims alleged in the complaint are the type of significant violations of law for which fencing-in relief is more than justified as an additional safeguard against potential recidivism. *See, e.g., id.* at 834 (ruling that deceptive health claims about topical analgesic for arthritis pain warranted fencing-in, and noting that the seriousness of the violations was ''affected by the fact that consumers could not readily judge the truth or falsity of the claims'').

While not taking issue with respondents' liability as alleged in the Commission's complaint, Commissioner Ohlhausen objects to the Commission's decision to require, as a remedial matter, that respondents have at least two RCTs before representing that their genetic products can cure, treat, diagnose, or prevent a disease. In addition to arguing that the two-RCT requirement is ''unduly high,'' Commissioner Ohlhausen expresses concern that these and other recent Commission orders may lead advertisers in general to believe that they too must invariably have two RCTs to substantiate health and disease claims for a variety of products, leading them to forgo otherwise adequately substantiated claims and depriving consumers of potentially useful information.[3] We respectfully disagree.

There is nothing in our action today that amounts to the imposition of a ''de facto two-RCT standard on health- and disease-related claims.''[4] In this and other recent enforcement actions, the Commission has consistently adhered to its longstanding view that the proper level of substantiation for establishing liability is a case-specific factual determination as to what constitutes competent and reliable scientific evidence for the advertising claims at issue.[5] The same fact-specific approach has guided the Commission's remedial standards. Recent Commission consent orders concerning different types of health claims have variously required two RCTs,[6] one RCT,[7] or more generally defined ''competent and reliable scientific evidence.''[8] Against this backdrop, we are not persuaded that by requiring two RCTs as a remedial matter here, the Commission will create a misperception among advertisers about the substantiation standards that govern liability for deceptive advertising.[9] However, to the extent other marketers look to our orders for signals as to the type of backing required for disease treatment claims, we prefer that they understand that serious claims like those made by respondents must have hard science behind them.

We also disagree that the proposed remedy will deny consumers access to useful information about new areas of science. The value of information naturally depends on its accuracy.[10] As

[2] *See also* Geoffrey Marczyk et al., Essentials of Research Design and Methodology 15–16 (2005) (''The importance of replication in research cannot be overstated. Replication serves several integral purposes, including establishing the reliability (*i.e.,* consistency) of the research study's findings and determining . . . whether the results of the original study are *generalizable* to other groups of research participants.'').

[3] Statement of Commissioner Maureen K. Ohlhausen, Dissenting in Part and Concurring in Part [hereinafter Ohlhausen Statement] at 1. In her Statement, Commissioner Ohlhausen also references various weight-loss related enforcement actions announced today by the Commission, including *FTC* v. *Sensa Products, LLC.* Her objections, however, center on the remedy imposed in this matter.

[4] Ohlhausen Statement at 3.

[5] *See, e.g., Bristol Meyers Co.,* 102 F.T.C. 21, 332–38 (1983), *aff'd,* 738 F.2d 554 (2d Cir. 1984); FTC, Dietary Supplements: An Advertising Guide for Industry 10 (Apr. 2001) [hereinafter Dietary Supplements Advertising Guide] (''When no specific claim about the level of support is made, the evidence needed depends on the nature of the claim. A guiding principle for determining the amount and type of evidence that will be sufficient is what experts in the relevant area of study would generally consider to be adequate.'').

[6] *See, e.g., FTC* v. *Skechers U.S.A., Inc.,* No. 1:12–cv–01214–JG (N.D. Ohio July 12, 2012) (prohibiting, as a remedial matter, weight loss claims without two RCTs); *FTC* v. *Labra,* No. 11 C 2485 (N.D. Ill. Jan. 11, 2012) (same); *FTC* v. *Iovate Health Scis. USA, Inc.,* No. 10–cv–587 (W.D.N.Y. July 29, 2010) (same); *Nestlé Healthcare Nutrition, Inc.,* 151 F.T.C. 1 (2011) (requiring two RCTs for claims that any probiotic drink or certain nutritionally complete drinks reduce the duration of acute diarrhea in children or absences from daycare or school due to illness).

[7] *See, e.g., FTC* v. *Skechers U.S.A., Inc.,* No. 1:12–cv–01214–JG (N.D. Ohio July 12, 2012) (prohibiting muscle strengthening claims for any footwear product without one RCT); *FTC* v. *Reebok Int'l Ltd.,* No. 1:11–cv–02046–DCN (N.D. Ohio Sept. 29, 2011) (same).

[8] *See, e.g., NBTY, Inc.,* 151 F.T.C. 201 (2011) (requiring marketer of vitamins to possess ''competent and reliable scientific evidence'' for any claim about the health benefits, performance, or efficacy of any product).

[9] Moreover, as Commissioner Ohlhausen notes, Ohlhausen Statement at 2 n.7, there may be some instances in which the medical community would not require RCTs to demonstrate that a substance treats, prevents, or reduces the risk of a disease. *See, e.g.,* Dietary Supplements Advertising Guide, *supra* note 5, at 11 (explaining that an appropriately qualified claim based on epidemiological evidence would be permitted where ''[a] clinical intervention trial would be very difficult and costly to conduct,'' ''experts in the field generally consider epidemiological evidence to be adequate'' and there is no ''stronger body of contrary evidence''). But, contrary to Commissioner Ohlhausen's contention, the link between folic acid and neural tube birth defects was substantiated using a combination of RCTs and observational epidemiological evidence, as indicated by the articles she cites. *See, e.g.,* Walter C. Willett, *Folic Acid and Neural Tube Defect: Can't We Come to Closure?,* 82 Am. J. Pub. Health 666, 667 (1992).

[10] In some instances, ''emerging'' scientific evidence has been subsequently contradicted by further research, leading to consumer confusion and potential physical and financial harm. *See, e.g.,* Eric A. Klein *et al., Vitamin E and the Risk of Prostate Cancer, The Selenium and Vitamin E Cancer Prevention Trial (SELECT),* 306 J. Am. Med. Ass'n 1549, 1551 (2011) (reporting that a 2008 randomized, placebo-controlled prospective clinical

Continued

the DC Circuit has emphasized, ''misleading advertising does not serve, and, in fact, disserves, th[e] interest'' of ''consumers and society . . . in the free flow of commercial information.'' *FTC* v. *Brown & Williamson Tobacco Corp.,* 778 F.2d 35, 43 (D.C. Cir. 1985) (citation and internal quotation marks omitted). If respondents wish to rely on emerging science, they can qualify their claims accordingly. Properly qualified claims are lawful and permissible under our proposed orders. *See* Proposed Consent Orders, Part III.

The fact that the ingredients in respondents' products are safe also does not alter our conclusion. Consumers who rely on respondents' claims may forgo important diet and lifestyle changes that are known to reduce the risk of diabetes, heart disease, or arthritis. Or they may forgo treatments that, unlike respondents' products, have been demonstrated to be effective. In addition, respondents charge a premium, over $100 per month, for their customized products. Consumers, therefore, may be deceived both to their medical and economic detriment when a safe product provides an ineffective treatment. *See FTC* v. *QT, Inc.,* 512 F.3d 858, 863 (7th Cir. 2008) (safe but deceptively advertised treatment ''will lead some consumers to avoid treatments that cost less and do more; the lies will lead others to pay too much for [treatment] or otherwise interfere with the matching of remedies to medical conditions''); *Pfizer Inc.,* 81 F.T.C. 23, 62 (1972) (''A consumer should not be compelled to enter into an economic gamble to determine whether a product will or will not perform as represented.''). Unsubstantiated disease claims also harm honest competitors that expend considerable resources on studies or analyses of the existing science and conform their advertising claims accordingly. Allowing companies to rely on ''emerging'' evidence to support disease claims merely because the products in question are safe would risk a ''race to the bottom''—the proliferation of progressively more egregious disease claims, which would harm both legitimate competitors and consumers in the process.

Finally, Commissioner Ohlhausen argues that requiring the RCTs to be conducted by different researchers working independently of each other imposes undue burdens in the absence of evidence that a defendant has fabricated or interfered with a study or its results.[11] This requirement is an important safeguard that lessens the likelihood that researcher bias will affect the outcome of a study and helps ensure that the results are replicable.[12]

In short, we believe the relief obtained by the Commission in this settlement is warranted and strikes the right balance between the need for accuracy in health-related advertising claims and the burden placed on respondents.

Statement of Commissioner Maureen K. Ohlhausen Dissenting In Part and Concurring In Part

I strongly support the Commission's enforcement efforts against false and misleading advertisements and therefore have voted in favor of the consent agreements with Sensa Products, LLC; HCG Diet Direct, LLC; L'Occitane, Inc.; and LeanSpa, LLC, despite having some concerns about the scope of the relief in several of these weight-loss related matters. I voted against the consent agreements in the matter of GeneLink, Inc. and foru International Corporation, however, because they impose an unduly high standard of at least two randomized controlled trials (or RCTs) to substantiate *any* disease-related claims, not just weight-loss claims. Adopting a one-size-fits-all approach to substantiation by imposing such rigorous and possibly costly requirements for such a broad category of health- and disease-related claims [1] may, in many instances, prevent useful information from reaching consumers in the marketplace and ultimately make consumers worse off.[2]

The Commission has traditionally applied the *Pfizer* [3] factors to determine the appropriate level of substantiation required for a specific advertising claim. These factors examine the nature of the claim and the type of product it covers, the consequences of a false claim, the benefits of a truthful claim, the cost of developing the required substantiation for the claim, and the amount of substantiation experts in the field believe is reasonable for such a claim.[4] One of the goals of the *Pfizer* analysis is to balance the value of greater certainty of information about a product's claimed attributes with the risks of both the product itself and the suppression of potentially useful information about it. Under such an analysis, the burden for substantiation for health- or disease-related claims about a safe product, such as a food, for example, should be lower than the burdens imposed on drugs and biologics because consumers face lower risks when consuming the safe product.[5]

Recently, however, Commission orders, including the ones in the matter of GeneLink and foru International, seem to have adopted two RCTs as a standard requirement for health- and disease-related claims for a wide array of products.[6] RCTs can be difficult to

trial of over 35,000 men contradicted ''considerable preclinical and epidemiological evidence that selenium and vitamin E may reduce prostate cancer risk,'' and that follow-up observational data from 2011 showed a statistically significant *increase* in prostate cancer in the vitamin E group over placebo).

[11] Ohlhausen Statement at 2–3.

[12] Commissioner Ohlhausen also objects to the Part I requirement that testing be conducted on the product about which the advertising claim is made or an ''essentially equivalent product,'' arguing that the order should authorize ''claims regarding individual ingredients in combined products as long as claims for each ingredient are properly substantiated and there are no known interactions.'' Ohlhausen Statement at 3. In fact, the orders permit that very thing. If there is reliable evidence that the additional ingredients will not interact with the tested product in a way that impacts efficacy, the orders do not require testing of the combined product. *See* Proposed Consent Orders at 3 (defining ''Essentially Equivalent Product'' to permit additional ingredients, beyond those in the tested product, if ''reliable scientific evidence generally accepted by experts in the field demonstrates that the amount and combination of additional ingredients [in the respondent's product] is unlikely to impede or inhibit the effectiveness of the ingredients in the [tested product]'').

[1] This provision may apply quite broadly in practice given the Commission majority's conclusion in our *POM Wonderful* decision that many of the claims involving the continued healthy functioning of the body also conveyed implied disease-related claims. *See POM Wonderful, LLC,* No. 9344, 2013 WL 268926 (F.T.C. Jan. 16, 2013).

[2] To be clear, however, I am not advocating in favor of permitting ''unsubstantiated disease claims,'' as suggested in the statement of Chairwoman Ramirez and Commissioner Brill. Rather, I am suggesting that consumers would on balance be better off if we clarified that our requirements permit a variety of health- or disease-related claims about safe products, such as foods or vitamins, to be substantiated by competent and reliable scientific evidence that might not comprise two RCTs.

[3] *Pfizer, Inc.,* 81 F.T.C. 23 (1972).

[4] *Id.* at 91–93; *see also FTC Policy Statement Regarding Advertising Substantiation,* 104 F.T.C. 839 (1984) (appended to *Thompson Med. Co.,* 104 F.T.C. 648, 839 (1984)).

[5] The FDA designates most food ingredients as GRAS (generally recognized as safe). 21 CFR 170.30. Vitamins and minerals are treated as foods by the FDA and are also GRAS. *See* FDA Guidance for Industry: Frequently Asked Questions about GRAS (Dec. 2004), *available at http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/IngredientsAdditivesGRASPackaging/ucm061846.htm#Q1.* As a result, food ingredients, vitamins, and minerals can be combined and sold to the public without direct evidence on the particular combination realized in the new product. Many products are made up of several common generic ingredients, for which there is little financial incentive to test individually or to retest in each particular combination.

[6] The orders in this matter include as a Covered Product any food, drug, or cosmetic that is genetically customized or personalized for a consumer or that is promoted to modulate the effect of genes. Other cases requiring two RCTs are *POM Wonderful LLC,* Docket No. 9344 (F.T.C. Jan. 10, 2013) (fruit juice); *Dannon Co., Inc.,* 151 F.T.C. 62

conduct and are often costly and time-consuming relative to other types of testing, particularly for diseases that develop over a long period of time or complex health conditions. Requiring RCTs may be appropriate in some circumstances, such as where use of a product carries some significant risk, or where the costs of conducting RCTs may be relatively low, such as for conditions whose development or amelioration can be observed over a short time period. Thus, I am willing to support the order requirement of two RCTs for short-term weight loss claims in the Sensa, HCG Diet Direct, L'Occitane, and LeanSpa matters because such studies can be conducted in a relatively short amount of time at a lower cost than for many other health claims. My concern with GeneLink and foru International and the series of similar orders is that they might be read to imply that two RCTs are required to substantiate any health- or disease-related claims, even for relatively-safe products. It seems likely that producers may forgo making such claims about these kinds of products, even if they may otherwise be adequately supported by evidence that does not comprise two RCTs.[7]

Although raising the requirement for both the number and the rigor of studies required for substantiation for all health- or disease-related claims may increase confidence in those claims, the correspondingly increased burdens in time and money in conducting such studies may suppress information that would, on balance, benefit consumers. If we demand too high a level of substantiation in pursuit of certainty, we risk losing the benefits to consumers of having access to information about emerging areas of science and the corresponding pressure on firms to compete on the health features of their products. In my view, the Commission should apply the *Pfizer* balancing test in a more finely calibrated manner than they have in the GeneLink and foru International orders to avoid imposing ''unduly burdensome restrictions that might chill information useful to consumers in making purchasing decisions.''[8]

In addition, based on the same concerns about imposing unnecessarily burdensome and costly obligations, I do not support a general requirement that all products be tested by different researchers working independently without an indication that the defendant fabricated or otherwise interfered with a study or its results.[9] Where defendants have fabricated results, as our complaint against Sensa alleges, a requirement of independent testing may be appropriate, but a simple failure to have adequate substantiation should not automatically trigger such an obligation. In other cases, where there is some concern about a sponsor or researcher biasing a study, our orders may address this in a less burdensome way by requiring the producer making the disease-related claims to provide the underlying testing data to substantiate its claims, which we can examine for reliability. Similarly, the requirement to test an ''essentially equivalent product,'' which appears to be more rigorous than FDA requirements for food and supplement products, can significantly and unnecessarily increase the costs of substantiation, again potentially depriving consumers of useful information. Instead, Commission orders should clearly allow claims regarding individual ingredients in combined products as long as claims for each ingredient are properly substantiated and there are no known relevant interactions.[10]

It is my hope and recommendation that as we consider future cases involving health- and disease-related claims, the Commission and its staff engage in a further dialogue about our substantiation requirements to discern how best to assess the potential costs and benefits of allowing different types of evidence that might provide a reasonable basis to substantiate such claims. Although I am willing to support liability for failures to have adequate substantiation for health- and disease-related claims under certain circumstances, I am not willing to support a de facto two-RCT standard on health- and disease-related claims for food or other relatively-safe products.

Statement of Commissioner Joshua D. Wright

Today the Commission announces five settlements involving the deceptive marketing of a variety of nutritional and dietary supplements, skincare products, and weight-loss remedies. While the course of business conduct, type of product and particular advertising claim at issue in each case differs, all share one common characteristic—the Commission has alleged that, in the course of advertising their products, each of these defendants has made false or unsubstantiated claims about the treatment of certain medical or health conditions.

Cases that challenge false or unsubstantiated claims—especially those involving serious medical conditions—are an important component of our agency's mission to protect consumers from economic injury. Indeed, the aggregate consumer injury in these particular matters is estimated to be $420 million and these settlement agreements will return approximately $33 million to consumers. I fully support the Commission's efforts to deter deceptive advertising and voted in favor of authorizing these particular settlements.

In crafting remedial relief in these cases, the Commission inevitably faces a tradeoff between deterring deceptive advertising and preserving the benefits to competition and consumers from truthful claims. Tailoring remedial relief—including the level of substantiation required—to the specific claims at issue is in the best interests of consumers.[1] I write today to express some of my views on this issue.

(2011) (yogurt); *Nestlé Healthcare Nutrition, Inc.,* 151 F.T.C. 1 (2011) (food); *FTC* v. *Iovate Health Sci. USA, Inc.,* No. 10–cv–587 (W.D.N.Y. July 29, 2010) (dietary supplement).

[7] Notably, the medical community does not always require RCTs to demonstrate the beneficial effects of medical and other health-related innovations. For example, the recommendation that women of childbearing age take a folic acid supplement to reduce the risk of neural tube birth defects was made without RCT evidence on the relevant population. *See* Walter C. Willett, ''Folic Acid and Neural Tube Defect: Can't We Come to Closure?'' *American Journal of Public Health,* May 1992, Vol. 82, No. 5; Krista S. Crider, Lynn B. Bailey and Robert J. Berry, ''Folic Acid Food Fortification—Its History, Effect, Concerns, and Future Directions,'' *Nutrients* 2011, Vol. 3, 370–384.

[8] FTC Staff Comment Before the Food and Drug Administration In the Matter of Assessing Consumer Perceptions of Health Claims, Docket No. 2005N–0413 (2006), *available at http://www.ftc.gov/be/V060005.pdf.*

[9] The FDA does not require independent testing for clinical investigational studies of medical products, including human drug and biological products or medical devices, and it permits sponsors to use a variety of approaches to fulfill their responsibilities for monitoring. *See* FDA Guidance for Industry Oversight of Clinical Investigations—A Risk-Based Approach to Monitoring (Aug. 2013), *available at http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM269919.pdf.*

[10] Although the statement by Chairwoman Ramirez and Commissioner Brill asserts that the orders in GeneLink and foru International permit claims for individual ingredients in combined products as long as the claims for each ingredient are properly substantiated and there are no known interactions, the orders actually require that ''reliable scientific evidence generally accepted by experts in the field demonstrate that the amount and *combination of additional ingredients* is unlikely to impede or inhibit the effectiveness of the ingredients in the Essentially Equivalent Product.'' Decision and Order at 2, *In the Matter of GeneLink, Inc.* FTC File No. 112 3095 (emphasis added). My point is that the FDA does not require direct evidence regarding *combinations of individual ingredients deemed GRAS* but the order on its face requires scientific evidence demonstrating the effect of such combinations.

[1] The Commission's determination of whether an advertiser has adequate substantiation in the first instance depends upon ''a number of factors

Continued

Each of the consent agreements announced today includes injunctive relief provisions requiring the settling parties to satisfy a standard of ''competent and reliable scientific evidence'' before again making the claims at issue. Each consent agreement further defines ''competent and reliable scientific evidence'' as requiring, among other things, two adequate and well-controlled human clinical studies (randomized controlled trials or RCTs) of the product. I encourage the Commission to explore more fully whether the articulation and scope of injunctive relief in these and similar settlements strikes the right balance between deterring deceptive advertising and preserving for consumers the benefits of truthful claims. The optimal amount and type of evidence to substantiate a future claim will vary from case to case. Similarly, a fact-specific inquiry may justify specially crafted injunctive relief in certain cases, such as bans, performance bonds or document retention requirements for underlying study data. I look forward to working with my fellow Commissioners to continue to examine and evaluate our formulation of the competent and reliable scientific evidence standard, as well as the ancillary injunctive provisions in consent agreements, in order to best protect consumers from the costs imposed upon them by deceptive advertising while encouraging competition and truthful advertising that benefits consumers.

[FR Doc. 2014–00560 Filed 1–14–14; 8:45 am]

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relevant to the benefits and costs of substantiating a particular claim. These factors include: the type of claim, the product, the consequences of a false claim, the benefits of a truthful claim, the cost of developing substantiation for the claim, and the amount of substantiation experts in the field believe is reasonable.'' FTC Policy Statement Regarding Advertising Substantiation, appended to *Thompson Medical Co.,* 104 F.T.C. 648, 839 (1984), *aff'd,* 791 F.2d 189 (D.C. Cir. 1986), *cert. denied,* 479 U.S. 1086 (1987). Formulating the required level of substantiation for injunctive relief should necessarily be grounded in the factors set forth in this policy statement, although additional considerations might also be relevant.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–14–0916]

Agency Forms Undergoing Paperwork Reduction Act Review

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 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Evaluation of Core Violence and Injury Prevention Program (Core VIPP)—Revision—(0920–0916, Expiration 1/13/2014)—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Injuries and their consequences, including unintentional and violence-related injuries, are the leading cause of death for the first four decades of life, regardless of gender, race, or socioeconomic status. More than 179,000 individuals in the United States die each year as a result of unintentional injuries and violence, more than 29 million others suffer non-fatal injuries and over one-third of all emergency department (ED) visits each year are due to injuries.[1] In 2000, injuries and violence ultimately cost the United States $406 billion, with over $80 billion in medical costs and the remainder lost in productivity.[1] Most events that result in injury and/or death from injury could be prevented if evidence-based public health strategies, practices, and policies were used throughout the nation.

CDC's National Center for Injury Prevention and Control (NCIPC) is committed to working with their partners to promote actions that reduce injuries, violence, and disabilities by providing leadership in identifying priorities, promoting tools, and monitoring effectiveness of injury and violence prevention, and to promote effective strategies for the prevention of injury and violence and their consequences. One tool NCIPC will use to accomplish this goal is through the use of the Core Violence and Injury Prevention Program (Core VIPP). This program funds state health departments (SHDs) to build their capacity to disseminate, implement, and evaluate evidence-based/best practice programs and policies. This evaluation will consider the implementation and outcomes of Core VIPP during the five-year funding period from August 2011 to July 2016. The Core VIPP will support funded states in building capacity and achieving health impact in their states. The key components of violence and injury prevention (VIP) capacity for Core Base Integration Component (BIC) VIPP are defined as: infrastructure, evaluation, strategies, collaboration, and surveillance.

CDC requests OMB approval to continue to collect program evaluation data for Core VIPP for an additional three-year period. The purpose of the evaluation is to track states' progress toward: (1) Achieving the Performance Measures identified in the Funding Opportunity Announcement (FOA); (2) building and/or sustaining their VIP capacity; and (3) achieving their focus area SMART (Specific, Measurable, Attainable, Reasonable, and Time-bound) objectives. The ability of states to make progress towards their SMART objectives will serve as a measure of Core VIPP's impact on the burden of violence and injury related morbidity and mortality in funded states.

The primary data collections methods will be used in the evaluation include: (1) Interim and annual progress reports, (2) online surveys, and (3) interviews. The progress reports will track states' performance measures and the activities stated in the Core VIPP FOA and monitor states' progress toward their focus area SMART objectives; the online survey will be used to measure grantees' changes in VIP capacity. Interviews will be used to provide more in-depth information about the key facilitators and barriers states have encountered while implementing their violence prevention programs.

The table below details the annualized number of respondents, the average response burden per interview, and the total response burden for the surveys and telephone interviews. Estimates of burden for the survey are based on previous experience with evaluation data collections conducted by the evaluation staff. The State of the States (SOTS) web-based survey assessment will be completed by 20 Core Funded State Health Departments (SHDs) and will take 3 hours to complete. The SOTS Financial Module will also be completed by the 20 BIC funded SHD and will take 1 hour to complete. The supplemental SOTS Survey Questions will be completed by 20 BIC funded SHDs and take 1.5 hours to complete. The BIC telephone interviews will take 1.5 hours and will be completed by the 20 Core funded SHDs.

[1] Finkelstein EA, Corso PS, Miller TR, Associates. *Incidence and Economic Burden of Injuries in the United States.* New York: Oxford University Press; 2006.

The Regional Network Leader (RNL) surveys will be completed by the 5 RNL funded SHDs and will take 1 hour to complete a telephone interview. The four Surveillance Quality Improvement (SQI) funded SHDs will complete a one-hour telephone interview. The four Motor Vehicle Child Injury Prevention Policy (MVP) SHDs will complete a telephone interview that will take one hour to complete.

There are no costs to respondents other than their time. The total estimated annual burden hours are 163.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Core VIPP Funded SHD Injury Program director.	State of the States Survey (SOTS)—Attachment C.	20	1	3
Core VIPP Funded SHD Injury Program director.	SOTS Financial Module—Attachment E	20	1	1
Core VIPP Funded SHD Injury Program management and staff.	Supplemental SOTS Survey Questions—Attachment F.	20	1	1.5
Core VIPP Funded SHD Injury Program management and staff.	BIC Telephone Interview—Attachment D	20	1	1.5
RNL awardees	RNL Telephone Interview—Attachment G	5	1	1
RNL awardees	RNL Network Satisfaction Survey—Attachment H.	5	1	1
RNL awardees	RNL Needs Assessment Survey—Attachment I.	5	1	1
SQI awardees	SQI Telephone Interview—Attachment J	4	1	1
MVP awardees	MVP Telephone Interview—Attachment K	4	1	1

LeRoy 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. 2014–00585 Filed 1–14–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–14–0941]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Evaluation of Dating Matters: Strategies to Promote Healthy Teen Relationships ™ (0920–0941, Expiration 5/31/2016)—Revision—National Center for Injury Prevention and Control (NCIPC)—Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Dating Matters: Strategies to Promote Healthy Teen Relationships ™ is the Centers for Disease Control and Prevention's new teen dating violence prevention initiative.

To address the gaps in research and practice, CDC has developed *Dating Matters,* teen dating violence prevention program that includes programming for students, parents, educators, as well as policy development. Dating Matters is based on the current evidence about what works in prevention and focuses on high-risk, urban communities where participants include: Middle school students age 11 to 14 years; middle school parents; brand ambassadors; educators; school leadership; program implementers; community representatives; and local health department representatives in the following communities: Alameda County, California; Baltimore, Maryland; Broward County, Florida; and Chicago, Illinois. In the evaluation, a standard model of TDV prevention (Safe Dates administered in 8th grade) will be compared to a comprehensive model (programs administered in 6th, 7th, and 8th grade as well as parent, educator, policy, and communications interventions).

The primary goal of the current proposal is to amend the available administration formats for the student follow-up survey for the participating youth as they matriculate into high school and to propose the use of monetary gifts for the completion of the student follow-up survey by high school youth to the approved outcome and implementation evaluation of Dating Matters in the four metropolitan cities to determine its feasibility, cost, and effectiveness. Following Dating Matters program participants into high school may prove challenging and without a high response rate, the evaluation design may be compromised. To address such concerns, we are requesting to provide a nominal monetary gift to participants in an amount up to $25. The use of this monetary gift is critical to maintain a high response rate of this high-risk and highly mobile sample. Response rates for the follow-up survey were anticipated to be 90%, however, in

the first administration of the survey in 2012/2013, within school year (e.g., Fall to Spring) follow-up with the middle school students proved challenging due to community characteristics—such as high mobility—and as a result we achieved an overall response rate of 73%. Among outgoing 8th graders who will be the first cohort to be surveyed in high school as of Spring 2014, the 2013 follow-up response rate was 56.3%. Efforts to improve response rates for middle school youth are underway, however, we have particular concerns for youth who matriculate from middle school to high school, as they will be in different school buildings and their schools will no longer be participating in the programmatic components of the initiative. Therefore, for these high school youth, additional measures, including monetary gifts and multiple administration formats, will be necessary to engage them in the survey to achieve our target response rate.

Population. The study population includes students in 6th through 12th grades at 44 schools in the four participating sites. At most, schools are expected to have 6 classrooms per grade, with an average of 30 students per classroom yielding a population of 23,760 students (44 schools × 3 grades × 6 classrooms per grade × 30 students per classroom). All student evaluation activities will take place during the school year. The sampling frame for parents, given that we would only include one parent per student, is also 23,760 for the three years of data collection covered by this package. If we assume 40 educators per school, the sampling frame for the educator sample is 1,760.

Students: In each year of data collection, we will recruit 11,880 students (30 students per classroom × 3 classrooms per grade × 3 grades × 44 schools). We assume a 95% participation rate (n = 11,286) for the baseline student survey and 90% participation rate (n = 10,692) at follow-up survey.

Parents: We will recruit a sample of 2,020 parents. We expect that 95% of the 2,020 parents will agree to participate at baseline (n = 1,919) and 90% will participate in the follow-up survey (n = 1,818) parents.

Educators: We will attempt to recruit all educators in each school (44 schools × 40 educators per school = 1,760). We expect a 95% participation rate for an estimated sample of 1,672 educators at baseline and 90% participation rate at follow-up for an estimated sample of 1,584.

School data extractors: We will attempt to recruit one data extractor per 44 schools to extract school data to be used in conjunction with the outcome data for the students. Data extractors in each school will access individual school-level data for those students in their school who consented and participated in the baseline student survey (3 × 4 × 30 × 95% = 342).

Implementation Evaluation

For the student focus groups, we will recruit groups of 10 students per group. Two groups will be held per each of the 4 sites (10 × 2 × 4 = 80 total student participants).

Student implementer focus groups will be organized by site, with two annual focus groups per site with 10 implementers in each group (10 × 2 × 4 = 80 total student program implementer participants).

Communications focus groups will be organized by site with up to four groups per site (4 × 4 × 6 = 96 total student participants).

Parent program implementer focus groups will be organized by site, with two annual focus groups per site with 10 implementers in each group (10 × 2 × 4 = 80 total parent program implementer participants).

School leadership: based on the predicted number of two school leadership per comprehensive school (21 schools), the number of respondents will be 42.

Local Health Department representative: based on the predicted number of four communities/sites and four local health department representatives working on Dating Matters per community, the number of respondents will be 16.

Community Advisory Board Representative: based on the predicted number of 20 community representatives per 4 communities/sites, the number of respondents will be 80.

Parent Program Manager: With a maximum of one parent program manager per community/site, the number of program manager respondents will be 4. It is anticipated that they will receive up to 50 TA requests per year and complete the form 50 times.

Student Program Master Trainer TA Form: With a maximum of 3 master trainers per community. There will be 12 master trainers. It is anticipated that they will receive up to 50 TA requests per year and complete the form 50 times.

Parent Curricula Implementers: It is expected that each school implementing the comprehensive approach (n = 21) will have two implementers (or 42 parent program implementer respondents). Please note that on the burden table the number of respondents is multiplied by the number of sessions in each parent program.

Student Curricula Implementers: based on the predicted number of 20 student curricula implementers per grade per site that will be completing fidelity instruments, the total number of respondents will be 80 per grade (20 × 4).

Brand Ambassadors: The Brand Ambassador Implementation Survey will be provided to each brand ambassador (n = 20) in each community with a maximum of 80 brand ambassadors.

Communications Implementers (''Brand Ambassador Coordinators''): The Communications Campaign Tracking form will be provided to each brand ambassador coordinator in each community. With a maximum of one brand ambassador coordinator per community (n = 4), the feedback form will be collected from a total of 4 brand ambassador coordinators.

Parent Program Participants: The 6th and 7th grade parent satisfaction questionnaires will be completed by parent participating in the parent program in each community. There is a maximum number of parent respondents of 1,890 (18 × 5 × 21) for the 6th grade satisfaction questionnaire and 1,890 for the 7th grade satisfaction questionnaire.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Total burden (hours)
Student Program Participant.	Student Outcome Survey Baseline—Attachment D:	11,286	1	45/60	8,465

ESTIMATED ANNUALIZED BURDEN—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Total burden (hours)
Student Program Participant.	Student Outcome Survey Follow-up—Attachment E:	10,692	1	50/60	8,910
School data extractor	School Indicators—Attachment G	44	342	15/60	3,762
Parent Program Participant.	Parent Outcome Baseline Survey—Attachment H.	1,919	1	1	1,919
Parent Program Participant.	Parent Outcome Follow-up Survey—Attachment EEEE.	1,818	1	1	1,818
Educator	Educator Outcome Survey (baseline)—Attachment I.	1,672	1	30/60	836
Student Brand ambassador.	Brand Ambassador Implementation Survey—Attachment J.	80	2	20/60	53
School leadership	School Leadership Capacity and Readiness Survey—Attachment K.	42	1	1	42
Parent Curricula Implementer.	Parent Program Fidelity 6th Grade Session 1–Session 6—Attachment L–Q.	210	3	15/60	158
Parent Curricula Implementer.	Parent Program Fidelity 7th Grade Session 1, 3, 5—Attachment R–T.	126	3	15/60	95
Student Curricula Implementer.	Student Program Fidelity 6th Grade Session 1–Session 6—Attachment U–Z.	480	1	15/60	120
Student Curricula Implementer.	Student Program Fidelity 7th Grade Session 1–Session 7—Attachment AA–GG.	560	1	15/60	140
Student Curricula Implementer.	Student Program Fidelity 8th Grade Session 1–Session 10 (comprehensive)—Attachment HH–QQ.	800	1	15/60	200
Communications Coordinator.	Communications Campaign Tracking—Attachment RR.	4	4	20/60	5
Local Health Department Representative.	Local Health Department Capacity and Readiness—Attachment SS.	16	1	2	32
Student Program Participant.	Student participant focus group guide (time spent in focus group)—Attachment ZZ.	80	1	1.5	120
Student Curricula Implementer.	Student curricula implementer focus group guide (time spent in focus group)—Attachment AAA.	80	1	1	80
Parent Curricula Implementer.	Parent curricula implementer focus group guide (time spent in focus group)—Attachment BBB.	80	1	1	80
Student Curricula Implementer.	Safe Dates 8th Grade Session 1–Session 10 (standard)—Attachment CCC–LLL.	800	1	15/60	200
Student Master Trainer ..	Student program master trainer TA form—Attachment DDDD.	12	50	10/60	100
Educator	Educator Outcome Survey (follow-up)—Attachment IIII.	1,584	1	30/60	792
Community Advisory Board Member.	Community Capacity/Readiness Assessment—Attachment JJJJ.	80	1	1	80
Students	Communications Focus Groups—Attachment KKKK.	96	1	1.5	144
Parent Program Manager.	Parent Program Manager TA Tracking Form—Attachment LLLL.	4	50	10/60	33
Parent Program Participant.	6th Grade Curricula Parent Satisfaction Questionnaire—Attachment MMMM.	1,890	1	10/60	315
Parent Program Participant.	7th Grade Curricula Parent Satisfaction Questionnaire—Attachment NNNN.	1,890	1	10/60	315
Total	.....	.....	.....	.....	28,814

LeRoy 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. 2014–00586 Filed 1–14–14; 8:45 am]

BILLING CODE 4163–18–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: Population Sciences and Epidemiology Integrated Review Group; Cardiovascular and Sleep Epidemiology Study Section.

Date: February 4, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Long Beach Downtown, 500 East First Street, Long Beach, CA 90802.

Contact Person: Julia Krushkal, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, 301–435–1782, *krushkalj@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Molecular and Cellular Endocrinology Study Section.

Date: February 11, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: John Bleasdale, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170 MSC 7892, Bethesda, MD 20892, 301–435–4514, *bleasdaleje@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: January 9, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–00550 Filed 1–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the NCI-Frederick Advisory Committee, February 04, 2014, 09:00 a.m. to February 04, 2014, 12:00 p.m., National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on December 27, 2013, 78 FR 78982.

The meeting notice is amended to change the date of the meeting from February 4, 2014 to February 4–5, 2014. This meeting will be held at The National Institutes of Health, Natcher Building, Room E1/E2, 45 Center Drive, Bethesda, MD 20892. The meeting is open to the public.

Dated: January 9, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–00548 Filed 1–14–14; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The 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 Advisory Environmental Health Sciences Council.

Date: February 19–20, 2014.

Open: February 19, 2014, 8:30 a.m. to 5:00 p.m.

Agenda: Discussion of program policies and issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: February 20, 2014, 8:30 a.m. to 11:00 a.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: Gwen W Collman, Ph.D., Interim Director, Division of Extramural Research & Training, National Institutes of Health, Nat. Inst. of Environmental Health Sciences, 615 Davis Dr., KEY615/3112, Research Triangle Park, NC 27709, (919) 541–4980, *collman@niehs.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.niehs.nih.gov/dert/c-agenda.htm,* where an agenda and any additional information for the meeting will be posted when available.

(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: January 9, 2014.

Carolyn Baum,

Program Analyst, Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–00551 Filed 1–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; 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 materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities, Special Emphasis Panel, NIMHD Social, Behavioral, Health Services, and Policy Research on Minority Health and Health Disparities (R01)

Date: February 20–21, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Rockville Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Deborah Ismond, Scientific Review Officer, National Institute on

Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 402–1366, *ismonddr@mail.nih.gov.*

Dated: January 9, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–00549 Filed 1–14–14; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences, Special Emphasis Panel, Analytical Chemistry Services for the National Toxicology Program.

Date: February 6, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27713.

Contact Person: Ms. RoseAnne M. McGee, Associate Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–0752, *mcgee1@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 9, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–00552 Filed 1–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Epidemiology, Prevention and Behavior Research Review Subcommittee.

Date: March 18, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, T508, Rockville, MD 20852.

Contact Person: Katrina L Foster, Ph.D., Scientific Review Administrator, National Institutes on Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 2019, Rockville, MD 20852, 301–443–3037, *katrina@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.273, Alcohol Research Programs; National Institutes of Health, HHS)

Dated: January 9, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–00554 Filed 1–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Clinical, Treatment and Health Services Research Review Subcommittee.

Date: March 11, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, T508, Rockville, MD 20852.

Contact Person: Katrina L Foster, Ph.D. Scientific Review Officer, National Institute on Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 2019, Rockville, MD 20852, 301–443–4032, *katrina@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.273, Alcohol Research Programs; National Institutes of Health, HHS)

Dated: January 9, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–00553 Filed 1–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: Sensitive Security Information Threat Assessments

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day Notice.

SUMMARY: This notice announces that the Transportation Security

Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0042, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on August 16, 2013, 78 FR 50076. A correction has been made in this notice to the number of burden hours per respondent from 1 to 2.7 hours. The increase in burden hours is based on historical data collected over the past three years. The collection involves TSA determining whether the party or representative of a party seeking access to sensitive security information (SSI) in a civil proceeding in federal court, or a prospective bidder seeking access to SSI for the purpose of perfecting a proposal in response to a TSA request for proposal, may be granted access to the SSI.

DATES: Send your comments by February 14, 2014. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–3651; *email TSAPRA@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov*. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Sensitive Security Information Threat Assessments.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0042.

Forms(s): TSA 2211.

Affected Public: Individuals seeking access to SSI Information.

Abstract: TSA has implemented section 525 of the DHS Appropriations Act, 2007, Public Law 109–925, see 525(d) (October 4, 2006), as reenacted,[1] by establishing a process whereby a party seeking access to SSI in a civil proceeding in federal court that demonstrates a substantial need for relevant SSI in preparation of the party's case may request that the party representative or court reporter be granted access to the SSI. Under section 114 of the Aviation and Transportation Security Act, Pub. L. 107–71 (November 19, 2001), and 49 CFR 1520.11(c), TSA may make an individual's access to SSI contingent upon satisfactory completion of a security background check or other procedures and requirements for safeguarding SSI that are satisfactory to TSA, and TSA uses the same process for a prospective bidder who is seeking access to SSI to submit a proposal in response to a request for proposal by TSA. The prospective bidder may request certain SSI to perfect their bid.

In order to determine if the individual may be granted access to SSI for these purposes, TSA conducts a criminal history records check (CHRC), professional responsibility check, and threat assessment. Individuals are required to submit information including identifying information and an explanation supporting the individual's need for the information.

Number of Respondents: 127

Estimated Annual Burden Hours: An estimated 343 hours annually.

Dated: January 10, 2014.

Joanna Johnson,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2014–00631 Filed 1–14–14; 8:45 am]

BILLING CODE 9110–05–P

[1] Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. 113–6, Div. D., Title V., sec. 510 (March 26, 2013).

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation of St Laboratories Group, LLC, as a Commercial Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of ST Laboratories Group, LLC, as a commercial laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that ST Laboratories Group, LLC, has been accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of September 12, 2013.

DATES: *Effective Dates:* The accreditation and approval of ST Laboratories Group, LLC, as commercial laboratory became effective on September 12, 2013. The next triennial inspection date will be scheduled for September 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 that ST Laboratories Group, LLC, 1404 S. Houston Rd., Pasadena, TX 77502, has been accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12. ST Laboratories Group, LLC is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D287	API Gravity of crude Petroleum and Petroleum products (Hydrometer Method).
27–04	D95	Standard test method for water in petroleum products and bituminous materials by distillation.
27–05	D4928–89	Standard test method for water in crude oils by Coulometric Karl Fischer Titration.
27–06	D473	Standard Test method for sediment in crude oils and fuel oils by extraction method.
27–07	D4807	Standard test method for sediment in crude oil by membrane filtration.
27–08	D86	Standard Test method for distillation of petroleum products.
27–11	D445	Standard Test method of kinematic viscosity of transparent and opaque liquids.
27–13	D4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27–48	D4052	Standard test method for density and relative density of liquids by digital density meter.
27–50	D93	Standard test method for flash point by Pensky Martin Closed Cup Tester.
29–01	D3797	Test method for analysis of o-Xylene by Gas Chromatography.
29–02	D3798	Test method for Analysis of p-Xylene by Gas Chromatography.

Anyone wishing to employ this entity to conduct laboratory analyses should request and receive written assurances from the entity that it is accredited by the U.S. Customs and Border Protection to conduct the specific test requested. Alternatively, inquiries regarding the specific tests this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf

Dated: January 3, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2014–00494 Filed 1–14–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Quarterly IRS Interest Rates Used In Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning January 1, 2014, the interest rates for overpayments will be 2 percent for corporations and 3 percent for non-corporations, and the interest rate for underpayments will be 3 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

DATES: *Effective Date:* January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614–4516.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2013–25, the IRS determined the rates of interest for the calendar quarter beginning January 1, 2014, and ending on March 31, 2014. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (1%) plus one percentage point (1%) for a total of two percent (2%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). These interest rates are subject to change for the calendar quarter beginning April 1, 2014, and ending June 30, 2014.

For the convenience of the importing public and U.S. Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	033114	3	3	2

Dated: January 10, 2014.

Thomas S. Winkowski,

Acting Commissioner.

[FR Doc. 2014–00588 Filed 1–14–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–01]

60-Day Notice of Proposed Information Collection: Rehabilitation Mortgage Insurance Underwriting Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: March 17, 2014.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlene Nunes, Director, HMID, Department of Housing and Urban Development, 451 7th Street SW.,

Washington, DC 20410; email Arlene Nunes at *Arlene.M.Nunes@Hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Nunes.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Rehabilitation Mortgage Insurance Underwriting Program Section 203(K) Office of Single Family Program Development.

OMB Approval Number: 2502–0527.

Type of Request: Extension of currently approved collection.

Form Number: HUD–92700, HUD–92700–A, HUD–9746–A, HUD–92577.

Description of the need for the information and proposed use: This request for OMB review involves an extension request for information collected under OMB approval 2502–0527 for lenders that originate and service Section 203(k) mortgages. The information collection focuses on the loan origination process and is used for underwriting purposes and to document expenditures from repair escrow accounts. Per the existing collection 8,255 respondents are borrowers and lenders, including approximately 20 nonprofits, who annually apply for regular 203(k) loans as well as the Streamlined (K) modification of the 203(k) program.

Respondents (i.e. affected public): Business or other for-profit.

Estimated Number of Respondents: 8,225.

Estimated Number of Responses: 144,455.

Frequency of Response: N/A.

Average Hours per Response: 121,891.

Total Estimated Burdens: 3,900,512.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: January 10, 2014.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–00642 Filed 1–14–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2013–N284; FXES11120100000–145–FF01E00000]

Draft Programmatic Candidate Conservation Agreement With Assurances for the Greater Sage-Grouse in Harney County, Oregon and Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt; Notice of availability; Request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from the Harney Soil and Water Conservation District (SWCD) for an enhancement of survival (EOS) permit under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA). The permit application includes a draft programmatic candidate conservation agreement with assurances (CCAA) between the SWCD and the Service for the greater sage-grouse (*Centrocercus urophasianus*) in Harney County, Oregon. The Service and SWCD prepared the programmatic CCAA to provide ranchers and farmers in Harney County with the opportunity to voluntarily conserve the greater sage-grouse and its habitat while carrying out ranch and farm operations. The Service also announces the availability of a draft environmental assessment (EA) that has been prepared in response to the permit application in accordance with requirements of the National Environmental Policy Act (NEPA). We are making the draft CCAA and draft EA available for public review and comment.

DATES: To ensure consideration, please send your written comments by February 14, 2014.

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the Harney SWCD CCAA:

- *Internet:* Documents may be viewed on the Internet at *http://www.fws.gov/oregonfwo/*.
- *Email: FW1HarneySWCDCCAA@fws.gov*. Include ''Harney SWCD CCAA'' in the subject line of the message or comments.
- *U.S. Mail:* U.S. Fish and Wildlife Service, Bend Field Office, 63095 Deschutes Market Road, Bend, Oregon 97701.
- *In-Person Viewing or Pickup:* Documents will be available for public inspection by appointment during normal business hours at the U.S. Fish and Wildlife Service's Bend Field Office, 63095 Deschutes Market Road, Bend, Oregon 97701; and at the Harney Soil and Water Conservation District Office, 530 Hwy 20 South, Hines, Oregon.
- *Fax:* Bend Field Office, 541–383–7638, Attn.: Harney SWCD CCAA.

FOR FURTHER INFORMATION CONTACT: Nancy Gilbert or Angela Sitz, Bend Field Office (see **ADDRESSES**), telephone: 541–383–7146. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Private and other non-Federal property owners are encouraged to enter into CCAAs, in which they voluntarily undertake management activities on their properties to enhance, restore, or maintain habitat benefiting species that are proposed for listing under the ESA, candidates for listing, or species that may become candidates or proposed for listing. Through a CCAA and its associated EOS permit the Service provides assurances to property owners that they will not be subjected to increased land use restrictions if the covered species become listed under the ESA in the future, provided certain conditions are met. Application requirements and issuance criteria for enhancement of survival permits for CCAAs are found in the Code of Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d), respectively. See also our joint policy on CCAAs, which we published in the **Federal Register** with

the Department of Commerce's National Oceanic and Atmospheric Administration, National Marine Fisheries Service (64 FR 32726; June 17, 1999).

On March 23, 2010, the Service determined that listing the greater sage-grouse under the ESA (16 U.S.C. 1538) was warranted, but precluded by the need to address higher priority species first. In anticipation of a listing decision by the Service, the SWCD established the Harney County Greater Sage-Grouse Candidate Conservation Agreement with Assurances Steering Committee (Steering Committee) and requested assistance from the Service in developing a greater sage-grouse conservation strategy for ranch and land management activities that could offer landowners assurances that their ranch and farm practices could continue in the event this species was listed under the ESA. The Steering Committee is comprised of local private landowners and representatives from the SWCD, the Service, Natural Resources Conservation Service, Bureau of Land Management, Oregon Department of Fish and Wildlife, Oregon Department of State Lands, Oregon State University Extension, Eastern Oregon Agricultural Research Center, The Nature Conservancy, and the Harney County Court. The Service, in coordination with the SWCD and the Steering Committee, developed the draft programmatic CCAA. The intent of the CCAA is to use voluntary, proactive conservation measures to reduce or remove threats to the greater sage-grouse in Harney County, thereby potentially reducing the need to list the species.

Proposed Action

The Service proposes to approve the CCAA and to issue an EOS permit to Harney SWCD for incidental take of greater sage-grouse caused by covered activities, if permit issuance criteria are met. The proposed CCAA covers an area of approximately 1.1 million acres of privately owned lands within the range of the greater sage-grouse in Harney County, Oregon. The CCAA covers numerous activities associated with ranching, farming and some irrigated agriculture. The CCAA contains a comprehensive list of conservation measures designed to avoid or minimize potential threats to the greater sage-grouse on private rangelands. The proposed term of the CCAA and EOS permit is 30 years.

The CCAA is programmatic in nature. A private landowner who wishes to enroll in the CCAA would develop, in coordination with the SWCD, a site-specific plan (SSP) for the property to be enrolled. The SWCD would assist the landowner in selecting appropriate conservation measures from the CCAA for their SSP that would address specific threats to the greater sage-grouse associated with their property and operations. If their SSP is approved by the Service and the SWCD, the landowner would receive coverage under the EOS permit, through a Certificate of Inclusion, for take of the greater sage-grouse incidental to conservation and ranching and farming activities, should the species become listed. Take authorization would become effective upon listing as long as the enrolled landowner is in compliance with the terms and conditions of the permit and the provisions of their SSP.

Consistent with our CCAA Policy (64 FR 32726), the conservation goal of the proposed CCAA is to encourage enhancement and protection of greater sage-grouse habitat on non-Federal lands by either maintaining or modifying existing land uses so that they are consistent with the conservation needs of the greater sage-grouse. We can meet this conservation goal with the use of a CCAA by giving non-Federal landowners incentives to implement conservation measures, primarily through regulatory certainty concerning land-use restrictions that might otherwise apply should the greater sage-grouse become listed under the ESA.

National Environmental Policy Act Compliance

The development of the CCAA and the proposed issuance of an EOS permit is a Federal action that triggers the need for compliance with the NEPA, as amended (42 U.S.C. 4321 *et seq.*). We have prepared a draft EA to analyze the direct, indirect, and cumulative environmental impacts of three alternatives on the quality of the human environment and other natural resources:

Alternative 1 (No Action): Under the No-Action alternative which represents current management, there would not be any Service-approved CCAA or SSPs and no EOS permit or Certificates of Inclusion addressing the greater sage-grouse within Harney County. Thus, conservation measures associated with a CCAA to reduce threats to the greater sage-grouse in Harney County would not be implemented and the regulatory assurances associated with an EOS permit, which are a major conservation incentive to enrolled landowners, would not be available. Ongoing efforts by other local, State, and Federal agencies and organizations to conserve the greater sage-grouse would still be in place in Harney County, however, the ability to complement and enhance these other efforts with a CCAA and EOS permit would not be available.

Alternative 2 (Landowner-specific CCAAs): Under this alternative, landowners would develop individual CCAAs with the Service for the greater sage-grouse, and the Service would issue EOS permits on a case by case basis, if the permit issuance criteria are met, to each landowner interested in conserving the greater sage-grouse. Developing individual CCAAs without the guidance provided in a programmatic CCAA would be more expensive and time consuming for landowners and the Service due to the need to prepare separate ESA and NEPA compliance documents and procedures for each CCAA.

Alternative 3 (Proposed Action): The proposed action alternative is issuance of an EOS permit to the SWCD if the permit issuance criteria are met, and the implementation of the programmatic CCAA. The programmatic CCAA provides a streamlined process for non-Federal landowners to voluntarily complete SSPs and be issued a Certificate of Inclusion to receive coverage under the EOS permit that would be issued to the SWCD.

Public Comments

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We specifically request information, views, and opinions from the public on our proposed Federal permit action, including identification of any other affected aspects of the human environment not already identified in the draft EA pursuant to NEPA regulations at 40 CFR 1506.6. Further, we specifically solicit information regarding the adequacy of the CCAA pursuant to the requirements for permits at 50 CFR parts 13 and 17.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comments, 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. Comments and materials we receive, as well as supporting documentation we use in preparing the

EA, will be available for public inspection by appointment, during normal business hours, at our Bend Field Office (see **ADDRESSES**).

Next Steps

After completion of the EA based on consideration of public comments on the draft EA, we will determine whether adoption of the proposed CCAA warrants a finding of no significant impact or whether an environmental impact statement should be prepared. We will evaluate the proposed CCAA as well as any comments we receive on it, to determine whether the CCAA would meet the requirements for an EOS permit under section 10(a)(1)(A) of the ESA. We will also evaluate whether issuance of an EOS permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation on the proposed permit action. We will consider the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue an EOS permit to the SWCD. The final NEPA and permit decisions will not be completed until after the end of the 30-day comment period on this notice, and will fully consider all comments received during the comment period.

If we determine that the permit issuance requirements are met, the Service would issue an EOS permit to the SWCD. The SWCD would then begin processing applications from interested landowners to develop SSPs that meet the terms and conditions established in the CCAA to receive coverage for the incidental take of the greater sage-grouse. If the SSP is consistent with the CCAA, the Service will issue a letter of concurrence to the SWCD approving the SSP, and the SWCD and landowner may then sign a Certificate of Inclusion.

Authority

We provide this notice in accordance with the requirements of section 10 of the ESA (16 U.S.C. 1531 *et seq.*), and NEPA regulations (40 CFR 1501.7, 1506.6, and 1508.22).

Dated: December 19, 2013.

Hugh Morrison,

Acting Deputy Regional Director, Pacific Region, U.S. Fish and Wildlife Service, Portland Oregon.

[FR Doc. 2014–00600 Filed 1–14–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMF01000 L13110000.PP0000 14XL1109PF]

Notice of Public Meeting, Farmington District Resource Advisory Council Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the Bureau of Land Management's (BLM) Farmington District Resource Advisory Council (RAC) will meet as indicated below.

DATES: The RAC will meet on February 11 and 12, 2014, at the Farmington District Office, 6251 College Blvd., Suite A, Farmington, NM 87402, from 9 a.m.–4 p.m. The public may send written comments to the RAC at the BLM Farmington District Office, 6251 College Blvd., Suite A, Farmington, NM 87402.

FOR FURTHER INFORMATION CONTACT: Christine Horton, BLM Farmington District Office, 6251 College Blvd., Suite A, Farmington, NM 87402, 505–564–7633. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8229 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 10-member Farmington District RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in the BLM's Farmington District. Planned agenda items include: Opening remarks from the BLM Farmington District Manager; the Mancos/Gallup Shale Resource Management Plan Amendment ongoing planning effort; the Glade Run Recreation Area Recreation and Travel Management Plan; Wild horse gathers for the Farmington District; and Taos Field Office planning updates and briefing (including the Río Grande del Norte National Monument Plan, Cebolla Oil and Gas leases, Taos Field Office fuel wood standards, the Dixon Citizens group cell tower appeal, and the Ohkay Owingeh Exchange request). A conference telephone line has been set up for the meeting. Contact Christine Horton at 505–564–7633 at least 2 days before the meeting to reserve a line. Due to a limited number of available lines, the conference line is available on a first-come first-served basis. All RAC meetings are open to the public. On Wednesday, February 12, 2014, at 2 p.m., members of the public will have the opportunity to make comments to the RAC, during an hour-long public comment period. Persons wishing to make comments during the public comment period should register in person with the BLM by 1 p.m. on February 12, 2014, at the meeting location. If you wish to make a comment during the comment period through the conference line, inform Christine Horton when you call to reserve the conference line. Depending on the number of commenters, the length of comments may be limited. The BLM appreciates any and all comments.

Michael H. Tupper,

Deputy State Director, Lands and Resources.

[FR Doc. 2014–00632 Filed 1–14–14; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR912000.L10600000.DF0000. 14XL1116AF; HAG14–0047]

Notice of Public Meetings, Western Oregon Resource Advisory Committees

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) western Oregon Resource Advisory Committees, will meet as indicated below.

DATES: *Roseburg District:* Monday, February 24, 9 a.m.–4 p.m.; Monday, March 3, 9 a.m.–4 p.m.; Monday, March 17, 9 a.m.–4 p.m.; Monday, March 31, 9 a.m.–4 p.m.

Salem District: Thursday, February 27 from 9 a.m.–4 p.m.

Eugene District: Thursday and Friday, March 13–14 from 8 a.m.–5 p.m. each day.

ADDRESSES: The meetings will be held at the following addresses in western Oregon. The point of contact for each meeting is also listed:

Roseburg District Resource Advisory Committee: Jake Winn, 777 NW Garden

Valley Blvd., Roseburg, Oregon 97470, (541) 440–4930.

Salem District Resource Advisory Committee: Richard Hatfield, 1717 Fabry Road SE., Salem, Oregon 97306, (503) 315–5968.

Eugene District Resource Advisory Committee: Pat Johnston, 3106 Pierce Parkway, Suite E, Springfield, Oregon 97477, (541) 683–6600.

FOR FURTHER INFORMATION CONTACT: Stephen Baker, Bureau of Land Management, Oregon/Washington, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, (503) 808–6036; *sabaker@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. 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 Secure Rural Schools and Community Self Determination Act was extended to provide stability for local counties by compensating them, in part, for the decrease in funds formerly derived from the harvest of timber on Federal lands. Pursuant to the Act, the five Committees serve western Oregon BLM districts that contain Oregon and California grant lands and Coos Bay Wagon Road grant lands. Committees consist of 15 local citizens representing a wide array of interests. The RACs provide a mechanism for local community collaboration with Federal land managers as they select projects to be conducted on Federal lands or that will benefit resources on Federal lands using funds under Title II of the Act. All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided above. The Resource Advisory Committees will be based on the following BLM District boundaries:

Coos Bay District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Coos Bay District which includes lands in Coos, Curry, Douglas, and Lane Counties.

Eugene District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Eugene District boundary which includes lands in Benton, Douglas, Lane, and Linn Counties.

Medford District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Medford District and Klamath Falls Resource Area in the Lakeview District which includes lands in Coos, Curry, Douglas, Jackson, and Josephine Counties and small portions of west Klamath County.

Roseburg District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Roseburg District boundary which includes lands in Douglas, Lane, and Jackson Counties.

Salem District Resource Advisory Committee advises Federal officials on projects associated with Federal lands within the Salem District boundary which includes lands in Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties.

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: Title VI, Section 205 of Pub. L. 110–343.

Jody L. Weil,

Deputy State Director, Office of Communications, Oregon/Washington.

[FR Doc. 2014–00598 Filed 1–14–14; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–IMR–GLCA; PPWONRADE2, PXXNRAD0553.00.1, PMP00EI05.YP000]

Off-Road Vehicle Management Plan, Draft Environmental Impact Statement, Glen Canyon National Recreation Area, Arizona and Utah

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of the Draft Environmental Impact Statement for the Off-Road Vehicle Management Plan, Glen Canyon National Recreation Area.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service (NPS) announces the availability of a Draft Environmental Impact Statement (Plan/DEIS) for the Off-Road Vehicle Management Plan, Glen Canyon National Recreation Area (GLCA), located in Arizona and Utah. The Plan/DEIS evaluates the impacts of four action alternatives that address off-road vehicle (ORV) management. It also assesses the impacts that could result from continuing the current management framework in the no-action alternative.

DATES: The NPS will accept comments on the Draft Environmental Impact Statement from the public for 60 days following publication by the U.S. Environmental Protection Agency (EPA) of the Notice of the Availability of the Draft Environmental Impact Statement. After the EPA Notice of Availability is published, the NPS will schedule public meetings to be held during the comment period. Dates, time, and locations of these meetings will be announced in press releases, a newsletter, and on the NPS Planning, Environment, and Public Comment (PEPC) Web site for the project at *http://parkplanning.nps.gov/GLCA.*

ADDRESSES: Information will be available for public review and comment online at: *http://parkplanning.nps.gov/GLCA.* Copies of the Plan/DEIS will also be available at Glen Canyon National Recreation Area Headquarters, 691 Scenic View Drive, Page, Arizona 86040.

FOR FURTHER INFORMATION CONTACT: Teri Tucker, Chief of Planning & Compliance, Glen Canyon National Recreation Area, P.O. Box 1507, Page, Arizona 86040, by phone at 928–608–6207, or by email at *teri_tucker@nps.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this Plan/DEIS is to evaluate off-road use and on-road all-terrain vehicle (ATV) use and develop management actions that preserve Glen Canyon's scientific, scenic, and historic features; provide for the recreational use and enjoyment of the area; and promote the resources and values for which the area was established as a unit of the national park system. This Plan/DEIS does not adjudicate, analyze, or otherwise determine the validity of R.S. 2477 (Rights-of-Way) claims.

The Plan/DEIS evaluates five alternatives—a no-action alternative (A) and four action alternatives (B, C, D, and E), all of which are summarized below. Alternative E is the NPS preferred

alternative. Alternative B is the environmentally preferable alternative. Other alternatives were explored but dismissed from detailed analysis.

• Alternative A—No-Action. The no-action alternative represents the status quo and the continuation of existing management policies and actions related to off-road use in Glen Canyon. This alternative is consistent with the Glen Canyon 1979 General Management Plan (GMP) and other planning documents related to off-road travel in Glen Canyon. Under this alternative, conventional motor vehicles would continue to be allowed at 12 accessible shoreline areas including Blue Notch, Bullfrog North and South, Copper Canyon, Crosby Canyon, Dirty Devil, Farley Canyon, Neskahi, Piute Canyon, Red Canyon, Stanton Creek, Warm Creek and White Canyon, subject to water level closures. Lone Rock Beach and Lone Rock Play Area would remain open to conventional motor vehicles, street-legal ATVs and off highway vehicles (OHV) as defined by state law. Conventional motor vehicles and street legal ATVs would be allowed on GMP roads, with the exception of roads in the Orange Cliffs Management Unit, where ATVs would continue to be prohibited. Off-road use would continue on routes in the Ferry Swale area by all vehicle types. Alternative A does not include safety or noise restrictions and does not include a permit system.

• Alternative B—No Off-road Vehicle Use. Under alternative B, off-road use would be managed in a manner consistent with the remote, undeveloped, and lightly traveled nature which characterizes much of Glen Canyon. The isolated and primitive characteristics of the Glen Canyon backcountry would be maintained by limiting the operation of all types of motor vehicles to designated roads. There would be no designated ORV routes or areas. All existing off-road use areas, including the accessible shorelines currently open, Lone Rock Beach and Lone Rock Beach Play Area, would be closed and restored to natural conditions. Conventional motor vehicles and street legal ATVs would be allowed on GMP roads, with the exception of roads in the Orange Cliffs Management Unit, where ATVs would continue to be prohibited.

• Alternative C—Increased Motorized Access. Under this alternative, off-road use would be managed in a manner that would expand the recreational opportunities in Glen Canyon by increasing the number of ORV routes and areas. Under this alternative, conventional motor vehicles, street-legal ATVs and OHVs, as defined by state law, would be allowed at 15 accessible shorelines, including Blue Notch, Bullfrog North and South, Copper Canyon, Crosby Canyon, Dirty Devil, Farley Canyon, Hite Boat Ramp, Neskahi, Nokai Canyon, Piute Canyon, Paiute Farms, Red Canyon, Stanton Creek, Warm Creek and White Canyon, subject to water level closures. Lone Rock Beach and Lone Rock Play Area would be open to conventional motor vehicles, street-legal ATVs and OHVs. The speed limit at the accessible shorelines and Lone Rock Beach would be 15 mph and quiet hours after 10 p.m. would be enforced. A permit would be required for all off-road travel. A red or orange whip flag would be required at the Lone Rock Beach Play Area in accordance with Utah OHV regulations. ORV routes would be designated on 12.1 miles of pre-existing routes in the Ferry Swale area. Under this alternative conventional motor vehicles, street legal ATVs and OHVs would be allowed on all GMP roads, including on roads in the Orange Cliffs Management Unit. The speed limit on unpaved GMP roads would be 25 mph or as posted. All ORVs and on-road ATVs must not exceed a sound level of 96 decibels when operated.

• Alternative D—Decreased Motorized Access. This alternative protects natural and cultural resources by limiting off-road use. Under this alternative, Lone Rock Beach Play Area, Blue Notch, Bullfrog North and South, Copper Canyon, Crosby Canyon, Neskahi, Nokai Canyon, Piute Canyon, Paiute Farms, Red Canyon, Warm Creek and White Canyon would be closed and restored to natural conditions. Conventional motor vehicles would be permitted at four designated accessible shoreline areas, Farley Canyon, Dirty Devil, Hite Boat Ramp and Stanton Creek. Lone Rock Beach would be open only to conventional vehicles. The speed limit at the accessible shorelines and Lone Rock Beach would be 15 mph and quiet hours after 10 p.m. would be enforced. A permit would be required for all off-road use. No ATVs or OHVs would be allowed in Glen Canyon National Recreation Area. All ORVs must not exceed a sound level of 96 decibels when operated. ORV routes would not be designated in the Ferry Swale area.

• Alternative E—Mixed Use (NPS Preferred Alternative). Alternative E is designed to protect resources and enhance the visitor experience by identifying and designating specific areas capable of supporting on-road ATV use and off-road use while prohibiting such uses in areas where resources and values may be at risk. Under this alternative one vehicle-accessible shoreline area—Warm Creek—would be closed permanently. Fourteen areas—Blue Notch, Bullfrog North and South, Copper Canyon, Crosby Canyon, Dirty Devil, Farley Canyon, Hite Boat Ramp, Neskahi, Nokai Canyon, Piute Canyon, Paiute Farms, Red Canyon, Stanton Creek and White Canyon—would remain open to conventional motor vehicles and street-legal ATVs, subject to water-level closures. Lone Rock Beach and Lone Rock Beach Play area would be open to conventional vehicles, street-legal ATVs and OHVs, as defined by state law. The speed limit at the accessible shorelines and Lone Rock Beach would be 15 mph and quiet hours after 10 p.m. would be enforced. Lone Rock Beach would include a no vehicle area. A red or orange whip flag would be required at the Lone Rock Beach Play Area in accordance with Utah OHV regulations. In addition, ORV routes would be designated on 12.1 miles of pre-existing routes in the Ferry Swale area. Under this alternative, conventional motor vehicles, street-legal ATVs and OHVs, as defined by state law, would be allowed on unpaved GMP roads, except ATVs and OHVs would not be allowed on roads in the Orange Cliffs Management Unit. The speed limit on unpaved GMP roads would be 25 mph or as posted. Conventional motor vehicles and street-legal ATVs would be allowed on paved GMP roads. All ORVs and on-road ATVs must not exceed a sound level of 96 decibels when operated.

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Office of the Superintendent, Glen Canyon National Recreation Area, P.O. Box 1507, Page, Arizona 86040. You may also submit your comments online on the PEPC Web site at *http://parkplanning.nps.gov/GLCA*. Finally, you may hand-deliver comments to Glen Canyon National Recreation Area, 691 Scenic View Drive, Page, Arizona 86040. Oral statements and written comments will also be accepted during the public meetings. Comments will not be accepted by fax, email, or in any other way than those specified above. Bulk comments in any format (hard copy or electronic) that are submitted on behalf of others will not be accepted. 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. We will make all submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: July 12, 2013.

John Wessels,

Regional Director, Intermountain Region, National Park Service,

Editorial Note: This document was received at the Office of the Federal Register January 3, 2014.

[FR Doc. 2014–00078 Filed 1–14–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–IMR–YELL–14103; PPIMYELL82, PPMRSNR1Z.AM0000]

Remote Vaccination Program To Reduce the Prevalence of Brucellosis in Yellowstone Bison, Final Environmental Impact Statement, Yellowstone National Park, Wyoming

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service announces the availability of a Final Environmental Impact Statement for the Remote Vaccination Program to Reduce the Prevalence of Brucellosis in Yellowstone Bison, Yellowstone National Park, Wyoming.

DATES: The National Park Service will execute a Record of Decision (ROD) no sooner than 30 days following publication by the Environmental Protection Agency of the Notice of Availability of the Final Environmental Impact Statement.

ADDRESSES: Information will be available for public inspection online at *http://parkplanning.nps.gov/YELL,* and at the Yellowstone Center for Resources, P.O. Box 168, Yellowstone National Park, Wyoming 82190, telephone (307) 344–2203.

FOR FURTHER INFORMATION CONTACT: Jennifer Carpenter or Rick Wallen, P.O. Box 168, Yellowstone National Park, WY 82190, telephone (307) 344–2203, or by email at *YELL_Bison_Management@NPS.GOV.*

SUPPLEMENTARY INFORMATION: The document describes three management alternatives including a no-action alternative and the NPS preferred alternative. The anticipated environmental impacts of those alternatives are analyzed. The final document also includes responses to substantive comments from the public, from traditionally associated American Indian tribes, and from government agencies.

Alternative A (No Action) describes the currently authorized syringe vaccination of calves and yearlings that are periodically captured at the park boundary. Alternative B describes a proposed action to continue the syringe vaccination program and add a field program to remotely vaccinate calves and yearlings using a pneumatic rifle to deliver an absorbable projectile with a vaccine payload to muscle tissue. Alternative C describes a program to continue the syringe vaccination action and add a field program to remotely vaccinate calves, yearlings, and adult females as is described in Alternative B.

The National Park Service has identified Alternative A, No Action, as its preferred alternative based on substantial uncertainties associated with vaccine efficacy, delivery, duration of the vaccine-induced protective immune response, diagnostics, and bison behavior, existing management flexibilities, and evaluation of public comments. Consistent with the 2000 Interagency Bison Management Plan (IBMP), the preferred alternative would continue hand-syringe vaccination of bison at capture facilities near the park boundary and conduct monitoring and research on the relationship between vaccine-induced immune responses and protection from clinical disease (e.g., abortions). Also, selective culling of potentially infectious bison based on age and diagnostic test results may be continued at capture facilities to reduce the number of abortions that maintain the disease. The preferred alternative would continue the adaptive management program, as described in the 2000 Record of Decision for the IBMP and subsequent adaptive management adjustments, to learn more about the disease brucellosis and answer uncertainties, as well as to develop or improve suppression techniques that could be used to facilitate effective outcomes, minimize adverse impacts, and lower operational costs of efforts to reduce brucellosis prevalence in the future.

The National Park Service would also continue to work with other federal and state agencies, American Indian tribes, academic institutions, non-governmental organizations, and other interested parties to develop holistic management approaches, monitoring and research projects that could be conducted to improve the adaptive management decision process, and better vaccines, delivery methods, and diagnostics for reducing the prevalence of brucellosis in bison and elk and transmissions to cattle.

Dated: October 31, 2013.

Laura E. Joss,

Acting Regional Director, Intermountain Region, National Park Service.

[FR Doc. 2014–00636 Filed 1–14–14; 8:45 am]

BILLING CODE 4312–CB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SER–EVER–14535; PX.P0078991D.00.1]

Draft Environmental Impact Statement for the Acquisition of Florida Power and Light Company Land in the East Everglades Expansion Area, Everglades National Park, Florida

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service (NPS) announces the availability of a Draft Environmental Impact Statement (Draft EIS) for the Acquisition of Florida Power and Light Company Land in the East Everglades Expansion Area, Everglades National Park, Florida.

DATES: The NPS will accept comments on the Draft EIS from the public for a period of 60 days following publication of the Environmental Protection Agency's Notice of Availability in the **Federal Register.** We will announce the dates, times, and location for a public meeting to solicit comments on the Draft EIS through the NPS Planning, Environment, and Public Comment (PEPC) Web site at *http://parkplanning.nps.gov/EVER;* the Web site of Everglades National Park at *www.nps.gov/ever;* and media outlets.

ADDRESSES: Electronic copies of the Draft EIS will be available online at *http://parkplanning.nps.gov/EVER.* A limited number of compact disks and printed copies will be also available at the Park headquarters, Everglades National Park, 40001 State Highway 9336, Homestead, Florida 33034–6733.

FOR FURTHER INFORMATION CONTACT: Brien Culhane, Everglades National Park, 40001 State Road 9336, Homestead, FL 33034–6733 or by telephone at (305) 242–7717.

SUPPLEMENTARY INFORMATION: The Draft EIS addresses options for NPS acquisition of existing Florida Power and Light (FPL) land located within the park, or sufficient interest in the property, to facilitate hydrologic and ecologic restoration of the park and Everglades ecosystem. This action is needed to support the mission of NPS and the park, because the East Everglades Expansion Area (EEEA), which includes the existing FPL parcel, has been identified as vital to long-term protection of the park for ecosystem restoration purposes. Also, the acquisition of the existing FPL parcel is needed to support the goals of restoring the Northeast Shark River Slough and to fulfill the purposes of the Comprehensive Everglades Restoration Plan. Public Law (Pub. L.) 101–229 (December 13, 1989), articulates that the Everglades is both nationally and internationally significant and sets forth specific goals and objectives for acquisition of properties in this area. Acquisition of land within the EEEA through an exchange of lands with FPL is also authorized by Public Law 111–11 (March 30, 2009).

The Draft EIS describes five alternatives for acquiring land owned by FPL in the EEEA within the boundaries of the park, or sufficient interest in this property, as well as the affected environment and the environmental consequences of implementing these alternatives. The Draft EIS addresses both the potential impacts from the acquisition of FPL land in the park, as well as the indirect impacts that could result from the subsequent construction and operation of transmission lines that could be built by FPL either inside or outside the park as a result of the land acquisition alternative selected. The alternatives are described in detail in Chapter 2 of the Draft EIS, and Chapter 4 details the key impacts of implementing the alternatives.

The following describes each of the alternatives included in the Draft EIS:

Alternative 1a—The NPS would not take action to acquire FPL property within the park. There would be no change in the status of FPL lands in the park. The impact analysis for this alternative assumes that FPL would not construct transmission lines on its existing land in the park or in any area outside the park. This alternative represents the environmental baseline. It assumes that the NPS would not be able to flow water on this property to achieve its long-term restoration objectives because it would not have acquired the right or interest to do so.

Alternative 1b—The NPS would not take action to acquire FPL property within the park, the same as alternative 1a, but the impact analysis for this alternative assumes that FPL would construct transmission lines on its existing land in the park. Although it represents the same management decision as alternative 1a, the impact analysis for this alternative addresses the impacts of transmission line construction on the FPL property. Similar to alternative 1a, it also assumes that the NPS would not be able to flow water on this property to achieve its long-term restoration objectives.

Alternative 2—The NPS would acquire the FPL corridor by purchase or through the exercise of eminent domain authority by the United States. This alternative would result in an increase of 320 acres of NPS-owned land within the authorized boundary of the park and would allow for flowage of water on this property. The transmission line construction scenario associated with the analysis of the impacts of alternative 2 assumes that FPL would likely acquire a replacement corridor east of the existing park boundary to meet its transmission needs and the lines would be built outside the park.

Alternative 3—The NPS would acquire fee title to the FPL corridor through a fee-for-fee exchange for park property, as authorized by the exchange legislation (Pub. L. 111–11). NPS land conveyed to FPL would consist of 260 acres along 6.5 miles of the eastern boundary of the EEEA, and the boundary of the park would be adjusted upon completion of the exchange to remove the lands conveyed to FPL from the park. The NPS would also convey a 90-foot-wide perpetual nonnative vegetation management easement to FPL adjacent to the entire length of the exchange corridor. The fee-for-fee land exchange would be subject to terms and conditions that are to be agreed upon between the NPS and FPL and incorporated into a binding exchange agreement. FPL would be required to allow the United States the perpetual right, power and privilege to flood and submerge the property consistent with hydrologic restoration requirements. The transmission line construction scenario associated with the analysis of the impacts of this alternative assumes that FPL would build the transmission lines in the exchange corridor in accordance with the terms and conditions established in the fee for fee exchange agreement.

Alternative 4—The NPS would acquire fee title to the FPL corridor through an exchange for an easement on NPS property. This is essentially the same as alternative 3, except that NPS would grant an easement (not fee title) to FPL on 260 acres of park land along 6.5 miles of the eastern boundary of the EEEA for potential construction of transmission lines, in accordance with the terms and conditions developed for this ''easement for fee'' exchange. The NPS would retain ownership of the corridor, but would no longer have the unencumbered use of the exchange corridor. The NPS would also convey a 90-foot-wide perpetual nonnative vegetation management easement to FPL adjacent to the entire length of the exchange corridor. The easement for fee land exchange would also be subject to terms and conditions that are to be agreed upon between the NPS and FPL and incorporated into a binding exchange agreement. Similar to alternative 3, the FPL easement area would be subject to a perpetual flowage easement. The transmission line construction scenario associated with the analysis of the impacts of this alternative assumes that FPL would build the transmission lines in the exchange corridor in accordance with the terms and conditions established in the easement for fee exchange agreement.

Alternative 5—The NPS would acquire a perpetual flowage easement on FPL's property within the EEEA through purchase, condemnation, or donation by FPL. FPL would retain ownership of its corridor in the park during the term of the easement and could seek to site transmission lines there. The flowage allowed under this easement would allow sufficient water flow over this area to support ecosystem restoration projects. There would be no change to the authorized boundary of the park, although the NPS would retain the current goal of acquiring this property over the long term. The construction scenario associated with the analysis of the impacts of this alternative would be the same as the one for alternative 1b (FPL construction of transmission lines on its existing land in the park), except that NPS would acquire a long-term, perpetual flowage easement.

If you wish to comment on the Draft EIS, you may submit your comments by any one of several methods. We encourage you to comment via the internet on the PEPC Web site at *http://parkplanning.nps.gov/EVER.* An electronic public comment form is provided on this Web site. You may also comment via mail to: Everglades National Park FPL Project Planning Team, National Park Service, M. Elmer (DSC–P), P.O. Box 25287, Denver, CO 80225–0287; or by hand delivery to Park headquarters, at 40001 State Road 9336, Homestead, FL 33034–6733.

Before including your address, phone number, email address, or other personal identifying information in your comment, please be aware 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 responsible official for this Draft EIS is the Regional Director, NPS Southeast Region, 100 Alabama Street SW., 1924 Building, Atlanta, Georgia 30303.

Dated: January 8, 2014.

Stan Austin,

Regional Director, Southeast Region.

[FR Doc. 2014–00634 Filed 1–14–14; 8:45 am]

BILLING CODE 4310–JD–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–GWMP–13704; PX.XGWMP0400.00.1]

Draft Environmental Impact Statement for the Dyke Marsh Restoration and Long-term Management Plan, George Washington Memorial Parkway, Virginia

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) announces the availability of a Draft Environmental Impact Statement (DEIS) for the Dyke Marsh Restoration and Long-term Management Plan at George Washington Memorial Parkway, Virginia. The DEIS provides a systematic analysis of alternatives for the restoration and long-term management of the tidal freshwater marsh and other associated wetland habitats lost or impacted in Dyke Marsh Preserve on the Potomac River.

DATES: The NPS will accept comments on the DEIS from the public for 60 days after the date that the Environmental Protection Agency publishes the notice of availability of the DEIS in its regular Friday **Federal Register** listing. A public meeting will be held during the review period to facilitate the submission of public comment. Once scheduled, the meeting date will be announced via the George Washington Memorial Parkway Web site (*http://www.nps.gov/gwmp/*), the NPS's Planning Environment and Public Comment (PEPC) Web site (*http://parkplanning.nps.gov/gwmp*), and a press release to area media.

ADDRESSES: The DEIS for the Dyke Marsh Restoration and Long-term Management Plan will be available for public review online at the NPS's PEPC Web site (*http://parkplanning.nps.gov/GWMP*). You may submit your comments by any one of several methods. The preferred method of commenting is via the Internet at (*http://parkplanning.nps.gov/GWMP*). You may also mail comments to Dyke Marsh Restoration Plan, 700 George Washington Memorial Parkway, Turkey Run Park Headquarters, McLean, VA 22101. Or, you may hand-deliver comments to 700 George Washington Memorial Parkway, Turkey Run Park Headquarters, McLean, VA 22101. Written comments will also be accepted at the public meeting. We will not accept comments by fax, email, or in any other way than those specified above. We will not accept bulk comments in any format (hard copy or electronic) submitted on behalf of others. 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.

FOR FURTHER INFORMATION CONTACT: Alex Romero, Superintendent, 700 George Washington Memorial Parkway, Turkey Run Park Headquarters, McLean, VA 22101; telephone (703) 289–2500.

SUPPLEMENTARY INFORMATION: The purpose of this DEIS is to develop a plan for the restoration and long-term management of the tidal freshwater marsh and other associated wetland habitats lost or impacted in Dyke Marsh Preserve on the Potomac River.

Dyke Marsh Preserve is one of the last large tracts of tidal freshwater marsh along the Potomac River in the Washington, DC, area and has existed for at least 2,200 years.

Located just south of Alexandria, Virginia, Dyke Marsh Preserve is viewed as a national treasure because of its proximity to the Nation's Capital and a large urban/suburban population, its history, and its current potential for providing ecosystem services, recreational values and educational opportunities. Despite continual degradation of the existing marsh, it provides numerous natural benefits and services, including resident and migratory wildlife habitat, refuge for state species of concern, attenuation of tidal energy, shoreline stabilization, flood control, and water quality enhancement.

The goal of the actions described in the DEIS is to restore areas of Dyke Marsh that were previously impacted by dredging and erosion. The park will re-establish soil elevations to sustain marsh plant communities while preventing damage to vegetation in the existing wetland. In the long-term, the project will provide additional wetlands to the Potomac River watershed ecosystems, preserve the aesthetic and natural values of Dyke Marsh and the George Washington Memorial Parkway, and continue to offer recreational opportunities currently available. Specific objectives of the plan are listed below.

Natural Resources. Dyke Marsh Restoration will protect and maintain tidal freshwater wetlands and associated ecosystems to provide habitat for fish, wildlife, and other biota. The park will ensure that management actions promote native species while minimizing invasive nonnative plants. The marsh restoration will reduce or eliminate erosion of the existing marsh and, to the extent practicable, will restore and maintain hydrologic processes needed to sustain the marsh. The restored marsh will protect breeding populations of state species of concern such as least bittern (*Ixobrychus exilis*), state critically imperiled swamp sparrow (*Meloxpiza georgiana* ssp. *georgiana,* G5T5, S1B/S4S5N), and state imperiled species such as river bulrush (*Bolboschoenus fluviatilis, G5S2*). Finally, the restoration will increase the resiliency of Dyke Marsh, provide a natural buffer to storms, and help ameliorate flooding in populated residential areas.

Cultural Resources. The restoration will protect the historic resources and cultural landscape features associated with Dyke Marsh and the George Washington Memorial Parkway.

Visitor Experience will be enhanced through appropriate educational, interpretation, and research opportunities at Dyke Marsh and enhance access by diverse audiences.

The DEIS analyzes two action alternatives and the no action alternative, as described below.

Alternative A: No Action—Under this alternative, there would be no restoration. Current management of the marsh would continue, which includes providing basic maintenance related to the Haul Road, control of nonnative invasive plant species, ongoing interpretive and environmental

education activities, scientific research projects, boundary marking, and enforcement of existing regulations. There would be no manipulation of the marsh other than emergency, safety-related, or limited improvements or maintenance actions. The destabilized marsh would continue to erode at an accelerated rate.

Alternative B: Hydrologic Restoration and Minimal Wetland Restoration—Under alternative B, the focus is on the most essential actions to reestablish hydrologic conditions that shield the marsh from erosive currents and protect the Hog Island Gut channel and channel wall. A breakwater structure would be constructed on the south end of the marsh, in alignment with the northernmost extent of the historic promontory, and wetlands would be restored to strategic areas where the water is less than 4 feet deep. This alternative also includes fill of some deep channel areas near the breakwater. The final element of this alternative is the reestablishment of hydrologic connections to the inland side of the Haul Road to restore bottomland swamp forest areas that were cut off when the Haul Road was constructed. Approximately 30 acres west of the Haul Road could be influenced by tidal flows as a result. These actions would not necessarily happen in any particular order, and may be dictated by available funds. However, it is assumed that the breakwater would be constructed first. This alternative would create approximately 70 acres of various new wetland habitats and allow the continued natural accretion of soils and establishment of wetlands given the new hydrologic conditions.

Alternative C: Hydrologic Restoration and Fullest Possible Extent of Wetland Restoration (NPS Preferred Alternative)—Under alternative C, the marsh would be restored in a phased approach up to the historic boundary of the marsh and other adjacent areas within NPS jurisdictional boundaries. Phased restoration would continue until a sustainable marsh is achieved and the overall goals of the project are met. The historic boundaries lie between the historic promontory and Dyke Island, the triangular island off the end of the Haul Road. The outer edges of the containment cell structures would be placed at the park boundary in the river.

The initial phase of this alternative would first establish a breakwater structure at the southern alignment of the historic promontory to provide immediate protection to Dyke Marsh from erosion. After the breakwater is established, the deep channel areas north of the historic promontory would be filled within the NPS boundary, and the marsh would be restored to the 4-foot contour at strategic locations to further reduce the risk of erosion and storm surges and promote sedimentation within the existing marsh. Afterwards, two cells would be constructed along the northern edge of the breakwater, restoring the original extent of the promontory's land mass.

All subsequent phases would establish containment cells out no further than the historic marsh boundary. The location of these cells would be prioritized based on the most benefits the specific locations could provide to the existing marsh. The timing of these subsequent phases and the size and number of cells built during these phases would be dependent upon available funds and materials.

In addition to the construction of containment cells, tidal guts would be cut into the restored marsh area that would be similar to the historical flow channels of the original marsh.

This alternative, like Alternative B, would also introduce breaks in the Haul Road, returning tidal flows to approximately 30 acres west of the Haul Road, which would help to re-establish the historic swamp forest originally found on the site.

Additional wetland may be restored south of the new breakwater to fill out the southernmost historic extent of the marsh. This area would not be protected from storms, and would be one of the last features implemented. In addition, the marsh restoration would extend north of Dyke Island, and tidal guts would be created. This alternative contains an optional restoration cell in the area currently serving as a mooring area for the marina. Such an option would only be implemented should the marina concession no longer be economically viable for the current concessioner, and then only if no other concessioner expresses interest in taking over the business, which would eliminate the need for the mooring field. In total, under this alternative, approximately 245 acres of various wetland habitats could be created.

Dated: October 21, 2013.

Stephen E. Whitesell,

Regional Director, National Park Service, National Capital Region.

[FR Doc. 2014–00633 Filed 1–14–14; 8:45 am]

BILLING CODE 4310–DL–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[14XR0680A1, RX.00236101.0021000, RR04313000]

Notice of Intent To Prepare an Environmental Impact Statement and Announcement of Public Scoping Meetings for Continued Implementation of the 2008 Operating Agreement for the Rio Grande Project, New Mexico and Texas

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Reclamation is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for the proposed continued implementation of the 2008 Operating Agreement over its entire remaining term (through 2050) for the Rio Grande Project in New Mexico and Texas. The Operating Agreement is a written detailed description of how Reclamation allocates, releases from storage, and delivers Rio Grande Project water to users within the Elephant Butte Irrigation District (EBID) in New Mexico, the El Paso County Water Improvement District No. 1 (EPCWID) in Texas, and to users covered by the 1906 international treaty with Mexico. In addition, this EIS proposes to evaluate the environmental effects of renewing San Juan Chama Project storage contracts under authority of the Act of December 29, 1981, Pub. L. 97–140, 95 Stat. 1717, providing for storage in Elephant Butte Reservoir.

DATES: Comments on the scope of the EIS must be received by February 14, 2014.

Three public scoping meetings will be held to solicit public input on the scope of the EIS, potential alternatives, and issues to be addressed in the EIS. See the **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: Written comments regarding the scope and content of the EIS should be sent to Ms. Rhea Graham, Bureau of Reclamation, Albuquerque Area Office, 555 Broadway NE., Suite 100, Mail Stop ALB–103, Albuquerque, New Mexico 87102, or provided via email at *rgraham@usbr.gov.*

Those not desiring to submit comments or suggestions at this time, but who would like to receive a copy of the EIS, should contact Ms. Graham using the information cited above. See the **SUPPLEMENTARY INFORMATION** section for locations of public scoping meetings.

FOR FURTHER INFORMATION CONTACT: Ms. Rhea Graham, Bureau of Reclamation;

telephone 505–462–3560; email at *rgraham@usbr.gov.* Individuals who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact Ms. Graham during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with Ms. Graham. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act, Reclamation will serve as the lead federal agency for preparation of the EIS on the continued implementation of the Operating Agreement for the Rio Grande Project, New Mexico and Texas. The responsible official for this action is Reclamation's Upper Colorado Regional Director.

Background

The Rio Grande Project includes Elephant Butte and Caballo dams and reservoirs, a power generating plant, and five diversion dams (Percha, Leasburg, Mesilla, American, and International) located on the Rio Grande in New Mexico and Texas. The Rio Grande Project was authorized by Congress under the authority of the Reclamation Act of 1902 and the Rio Grande Project Act of February 25, 1905. The Rio Grande Project Operating Agreement was signed in 2008 to allocate Rio Grande Project water, which includes water stored in Elephant Butte and Caballo reservoirs and return flows to the Rio Grande between the EBID in the Rincon and Mesilla valleys of New Mexico and the EPCWID in the Mesilla and El Paso valleys of Texas and Mexico. The Rio Grande Project also provides water to Mexico under the 1906 international treaty. Rio Grande Project water is provided by Reclamation to irrigate a variety of crops and for municipal and industrial water uses.

Purpose and Need for Action

The purpose and need for action is to meet contractual obligations to EBID and EPCWID to implement a written set of criteria and procedures for allocating, delivering, and accounting for Rio Grande Project water to both districts consistent with their rights under applicable law each year in compliance with various court decrees, settlement agreements, and contracts. These include the 2008 Compromise and Settlement Agreement among Reclamation, EBID, and EPCWID, and contracts between the United States and the EBID and EPCWID. The purpose and need of an ancillary but potentially similar action is to implement the provisions of the Act of December 29, 1981, to allow the storage of San Juan-Chama project water acquired by contract with the Secretary of the Interior pursuant to Public Law 87–483 in Elephant Butte Reservoir.

Proposed Action

The proposed federal action is to continue to implement the 2008 Operating Agreement for the Rio Grande Project over the remaining term (through 2050), and a potentially similar action under 40 CFR 1508.25, to implement long-term contracts for storage of San Juan-Chama water in the Rio Grande Project.

Scoping Process

This notice initiates the scoping process which guides the development of the EIS. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to Reclamation using the contact information provided above. To be most effective, written comments should be received prior to the close of the comment period and should clearly articulate the commentor's concerns.

Dates and Addresses of Public Scoping Meetings

The scoping meeting dates and addresses are:

- Thursday, January 30, 2014, 3:00 p.m. to 5:00 p.m., Bureau of Reclamation, Albuquerque Area Office, 555 Broadway NE., Suite 100, Albuquerque, New Mexico 87102
- Friday, January 31, 2014, 6:00 p.m. to 8:00 p.m., Elephant Butte Irrigation District, 530 South Melendres Street, Las Cruces, New Mexico 88005
- Saturday, February 1, 2014, 9:00 a.m. to 11:00 a.m., Bureau of Reclamation, El Paso Field Division, 10737 Gateway West, Suite 350, El Paso, Texas 79935

Special Assistance for Public Scoping Meetings

If special assistance is required at the scoping meetings, please contact Ms. Graham at 505–462–3560 or email at *rgraham@usbr.gov.* Please notify Ms. Graham at least two weeks in advance of the meeting to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, please be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 5, 2013.

Brent Rhees,

Deputy Regional Director—Upper Colorado Region, Bureau of Reclamation.

[FR Doc. 2014–00476 Filed 1–14–14; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–904]

Certain Acousto-Magnetic Electronic Article Surveillance Systems, Components Thereof, and Products Containing Same; Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 11, 2013, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Tyco Fire & Security GmbH of Switzerland; Sensormatic Electronics, LLC of Boca Raton, Florida; and Tyco Integrated Security, LLC of Boca Raton, Florida. A letter supplementing the complaint was filed on December 23, 2013. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain acousto-magnetic electronic article surveillance systems, components thereof, and products containing same by reason of infringement of U.S. Patent No. 5,729,200 (''the '200 patent'') and U.S. Patent No. 6,181,245 (''the '245 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a general exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection

during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2013).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 9, 2014, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain acousto-magnetic electronic article surveillance systems, components thereof, and products containing same by reason of infringement of one or more of claims 1–4, 6, 7, and 20–25 of the '200 patent and claims 1–5 of the '245 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Tyco Fire & Security GmbH, Victor von Bruns Strasse 21, Neuhausen am Rheinfall 8212, Switzerland;

Sensormatic Electronics, LLC, 6600 Congress Avenue, Boca Raton, FL 33487;

Tyco Integrated Security, LLC, 1501 Yamato Road, Boca Raton, Florida 33487.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Ningbo Signatronic Technologies, Ltd., 505 MingZhou Road (West), BeiLun District, Ningbo, China 315800;

All-Tag Security Americas, Inc., 1155 Broken Sound Parkway, NW., Unit E, Arvida Park of Commerce, Boca Raton, FL 33487;

All-Tag Security Hong Kong Co., Ltd., Unit 1211, 12/F, Tsuen Wan Industrial Centre, 220–248 Texaco Road, Tsuen Wan N.T., Hong Kong;

All-Tag Europe SPRL, Chaussée d'Alsemberg, 999 Boite 14, 1180 Brussels, Belgium;

All-Tag Security UK, Ltd., Unit 3 Bamford Business Park, Hibbert Street, Stockport SK4 1PL Cheshire, United Kingdom;

Best Security Industries, 755 NW 17th Avenue Suite 101, Delray Beach, FL 33445;

Signatronic Corporation, 1155 Broken Sound Parkway NW Unit E, Boca Raton, FL 33487.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: January 9, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–00566 Filed 1–14–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1207–1209 (Final)]

Prestressed Concrete Steel Rail Tie Wire From China, Mexico, and Thailand; Scheduling of the Final Phase of Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping duty investigation Nos. 731–TA–1207–1209 (Final) under section 731(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports of prestressed concrete steel rail tie wire from China, Mexico, and Thailand, provided for in subheading 7217.10.80 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* December 12, 2013.

FOR FURTHER INFORMATION CONTACT: Angela M. W. Newell (202–708–5409), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''PC tie wire''—high carbon steel wire; stress relieved or low relaxation; indented or otherwise deformed; meeting at a minimum the physical, mechanical, and chemical requirements of the American Society of Testing Materials (''ASTM'') A881/A881M specification; regardless of shape, size or alloy element levels; suitable for use as prestressed tendons in concrete railroad ties. High carbon steel is defined as steel that contains 0.6 percent or more of carbon by weight.

Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that prestressed concrete steel rail tie wire from China and Mexico are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on April 23, 2013, by Davis Wire Corp. of Kent, Washington and Insteel Wire Product Co. of Mount Airy, North Carolina.

Although the Department of Commerce has preliminarily determined that imports of prestressed concrete steel rail tie wire from Thailand are not being and are not likely to be sold in the United States at less than fair value, for purposes of efficiency the Commission hereby waives rule 207.21(b) [2] so that the final phase of the investigation may proceed concurrently in the event that Commerce makes a final affirmative determination with respect to such imports.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on April 16, 2014, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on May 6, 2014, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before April 29, 2014. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 2, 2014, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is April 29, 2014. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 13, 2014. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before May 13, 2014. On May 28, 2014, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 30, 2014, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 9, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–00603 Filed 1–14–14; 8:45 am]

BILLING CODE 7020–02–P

[2] Section 207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will publish a Final Phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

DEPARTMENT OF JUSTICE

[OMB Number 1103–0098]

Agency Information Collection Activities: Revision of a Previously Approved Collection, With Change; Comments Requested COPS Application Package

ACTION: 30-Day notice.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) 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. This proposed information collection was previously published in the **Federal Register** Volume 78, Number 222, page 69129 on November 18, 2013, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 14, 2014. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Danielle Ouellette, Department of Justice Office of Community Oriented Policing Services, 145 N Street NE., 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:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a previously approved collection, with change.

(2) *Title of the Form/Collection:* COPS Application Package

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Law enforcement agencies and other public and private entities that apply for COPS Office grants or cooperative agreements will be asked complete the COPS Application Package. The COPS Application Package includes all of the necessary forms and instructions that an applicant needs to review and complete to apply for COPS grant funding. The package is used as a standard template for all COPS programs.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 5000 respondents annually will complete the form within 11 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 55,000 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: January 8, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–00513 Filed 1–14–14; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

Justice Management Division

[OMB Number 1103–0016]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Certification of Identity

ACTION: 30-day notice.

The Department of Justice (DOJ), Justice Management Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collected was previously published in the **Federal Register** Volume 78, Number 219, page 68092 on November 13, 2013, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 14, 2014. This process is in accordance with 5 CFR 1320.10.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Certification of Identity.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form DOJ–361. Facilities and Administrative Services Staff, 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: American Citizens. Other: Federal Government. The information collection will be used by the Department to identify individuals requesting certain records under the Privacy Act. Without this form an individual cannot obtain the information requested.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 69,000 respondents will complete each form within approximately 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated total of 34,500 annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, U.S. Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Suite 3W–1407B, Washington, DC 20530.

Dated: January 9, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–00493 Filed 1–14–14; 8:45 am]

BILLING CODE 4410–CW–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2014–1]

Strategic Plan for Recordation of Documents

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

ACTION: Notice of Inquiry.

SUMMARY: The United States Copyright Office is requesting public comment on proposed key elements relevant to reengineering the function of recording documents pertaining to copyright pursuant to 17 U.S.C. 205. In a separate notice that will be published soon, the Office will also announce a series of public hearings on these elements, scheduled shortly after the end of the comment period on this Notice of Inquiry. The elements have been developed with the aid of previous comments obtained during the Office's two-year Special Projects process, particularly the Special Project on Technical Upgrades to Registration and Recordation Functions. (That Project's Notice of Inquiry and the comments received in response are available at *http://www.copyright.gov/docs/technical_upgrades/*.)

In particular, the Office is seeking comment and holding public hearings on the following elements: (1) A guided remitter responsibility model of electronic recordation; (2) the use of structured electronic documents that contain their own indexing information; (3) the linking of recordation records to registration records; (4) the use of standard identifiers, and other metadata standards, in recorded documents and the catalog of such documents; and (5) potential additional incentives to record documents pertaining to copyrights. Further explanation of these elements is to be found below in the **SUPPLEMENTARY INFORMATION** section of this Notice.

The Office appreciates in particular comments from parties who record documents and the professionals who assist them in doing so; from parties experienced with electronic recordation in other areas, such as that of real property; from those who maintain databases of copyrighted works for licensing or other purposes; from those who have developed or are developing metadata standards for copyright management purposes; and from those who use the Copyright Office's catalog and collection of recorded documents for any purpose.

DATES: Comments on the Notice of Inquiry and Requests for Comments are due on or before March 15, 2014. The Office will hold public hearings on the east and west coasts following the close of the public comment period on dates to be determined.

ADDRESSES: All comments shall be submitted electronically. A comment page containing a comment form is posted on the Copyright Office Web site at *http://www.copyright.gov/docs/recordation.* The Web site interface requires submitters to complete a form specifying name and organization, as applicable, and to upload comments as an attachment via a browse button. To meet accessibility standards, all comments must be uploaded in a single file in either the Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The maximum file size is 6 megabytes (MB). The name of the submitter and organization should appear on both the form and the face of the comments. All comments will be posted publicly on the Copyright Office Web site exactly as they are received, along with names and organizations. If electronic submission of comments is not feasible, please contact the Copyright Office at 202–707–8350 for special instructions.

FOR FURTHER INFORMATION CONTACT: Robert Brauneis, Abraham L. Kaminstein Scholar in Residence, by email at *USCOrecordation@loc.gov,* or call the U.S. Copyright Office by phone at 202–707–9536.

SUPPLEMENTARY INFORMATION:

I. Background

Since 1870, the Copyright Office has recorded documents pertaining to copyright, such as assignments, licenses, and grants of security interests in works under copyright. It has accepted such copyright-related documents from remitters for recordation; returned documents marked as recorded to remitters; made copies of those documents permanently available for public inspection; and ensured the preparation of indexes to assist the public in finding relevant documents. Congress has encouraged the recordation of copyright-related documents by bestowing certain legal advantages on recorded documents. In some cases, such as that of notices of terminations of transfer, it has required the filing of documents as a condition of their legal effectiveness. A principal purpose of these incentives and requirements is to ensure that those who are interested in licensing, purchasing, or gaining security interests in works under copyright can learn of the current state of the titles in those works. Thus, the Copyright Office has an important interest in ensuring that the public record of copyright transactions is as complete and as accurate as possible.

In 1870, documents remitted for recordation arrived at the Copyright Office in paper form, and Copyright Office employees prepared index or catalog entries for those documents by manually transcribing selected information from the documents. Almost 150 years later, that is still the case. Many other aspects of the recording process have changed. Recorded documents used to be manually transcribed in full; they now are scanned and stored electronically. The index to recorded documents used to appear in the front of bound volumes or on index cards; it is now maintained as part of an online electronic database known as the Copyright Office Catalog,

which also contains copyright registration records. Yet documents must still be remitted for recordation in paper form, and Office employees must still read and interpret those documents and manually transcribe selected information from them to create catalog entries in the Copyright Office Catalog. In this respect, the Copyright Office's document recordation service has lagged behind its copyright registration service. The Office began accepting registration applications online in July 2008, but for budgetary reasons it dropped plans to reengineer recording services. Thus, modernizing and improving recordation services is a top concern of the Copyright Office.

II. Discussion

Over the past two years, the Copyright Office has sought comments on technological upgrades to the recordation function, and has held focused discussions with copyright owners, users of copyright records, technical experts, public interest organizations, lawyers, and professional and industry associations. Participants in that process have expressed a number of serious concerns about the current recordation system, and have offered a variety of helpful suggestions for improvement.

A. Leading Concerns About Recordation. The most prominent recurring concerns about document recordation are cost, processing time, inconvenience of remitting, and cataloguing inaccuracies.

1. Cost. Because recordation has remained labor-intensive while many other Copyright Office functions have increased in efficiency, recordation has become relatively more expensive. While for many decades the basic recordation and registration fees were the same, the most basic recordation fee is now over two times that of the most basic registration fee. That fee difference is a direct result of estimates of the cost of performing those services. Stakeholder comments reveal serious concerns about the fee level for recordation. They also reveal that high fees have deterred some from recording documents altogether, and have caused others to take actions that leave significant gaps in the public record. Those actions include recording transfers for large numbers of works without specifically identifying them, and submitting new registrations for previously registered works in the name of assignees rather than recording transfer documents.

2. Processing Time. Many who remit documents to be recorded have also expressed serious concerns about the time needed for processing remitted documents. They have noted that it can take a year or longer for the Copyright Office to return a remitted document marked as recorded, and that it can take even longer for information about the document to become available online in the Copyright Office Catalog. Comments have suggested that the longest delays are caused by the need to transcribe manually the titles of works to which a remitted document pertains.

3. Inconvenience of Remitting. Document remitters have also expressed concerns about the difficulty and inconvenience of remitting documents for recordation, and about the mismatch between Copyright Office requirements and their own business practices. Many remitted documents are originally produced electronically in a word processing format, and could easily be saved in a cross-platform format such as Adobe Portable Document Format and transmitted electronically to the Copyright Office for recording. Other documents could be scanned and transmitted electronically. However, the Copyright Office currently only accepts paper documents, so document remitters must print all documents and send them in paper form to the Copyright Office, which increases the labor and cost involved in recording. The Copyright Office also currently requires an actual ''wet'' signature on either the remitted document or on an accompanying certification. Some copyright transactions are now accomplished with electronic signatures, and remitters must therefore prepare special versions of the documents with actual signatures on paper solely for purposes of recording. This also contributes to the difficulty and cost of recording.

4. Cataloging Inaccuracies. The existing system of preparing Copyright Office Catalog records for recorded documents through manual transcription from paper documents also results in significant numbers of inaccuracies in those records. Commenters have complained about such inaccuracies as typographical errors in names and titles; incorrectly transcribed registration numbers; incorrectly transcribed dates; and incorrect indexing of titles under ''the'' and other articles. Such inaccuracies can cause users of the Catalog to miss documents relevant to their concerns, or to gain mistaken impressions of the nature of those documents.

B. Concerns regarding the optimum identification of works to which recorded documents pertain. Stakeholders have expressed a number of related concerns regarding how works are identified in recorded documents. These include concerns about whether documents concerning particular works can be located at all; whether document records can be linked to registration records pertaining to the same works; and whether Copyright Office records can be integrated with information about works derived from other sources.

1. Identification of works to which recorded documents pertain. Given current requirements, incentives, and practices, it is sometimes very difficult to identify specific works the ownership of which is affected by recorded documents. Under current law and regulations, documents will be accepted for recordation whether or not they identify particular works the ownership of which they affect. A document will be rejected for lack of work identification only if the omission of an identifier renders the document incomplete on its face—when, for example, the document refers to a list of title in an Appendix that is missing. Sections 205(c) and 205(d) of the Copyright Act do create incentives to identify a work to which a document pertains by title or registration number. Section 205(c) provides that a recorded document provides constructive notice of the facts stated in it only if the document or an attachment ''specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work.'' 17 U.S.C. 205(c). Section 205(d) provides that only those transfers recorded in such a manner to give constructive notice under section 205(c) will be protected against conflicting transfers. 17 U.S.C. 205(d).

Commenters have questioned the usefulness of these incentives in practice. Fewer than half of the works that have been specifically identified in recorded documents since 1978 are identified by registration number. While virtually all specifically identified works are identified by title, there is no requirement that a title be unique. Moreover, many works are not generally known by the titles that are submitted as identification. The titles submitted for photographs, for example, are often no more than strings of digits, which are not helpful for search purposes.

2. The linking of document records with registration records. Since 1978, document remitters have identified by copyright registration number almost four million works affected by remitted documents. However, remitters have submitted those registration numbers in many different formats, which often

differ in matters of spacing, hyphenation, and other punctuation from the official format used by the Copyright Office. Each registration number is transcribed into the Copyright Office Catalog in exactly the format in which that the remitter submitted it, and document specialists do not verify that the number submitted is a valid registration number. As a result, the Copyright Office Catalog does not contain links between recorded documents and registrations, and even valid registration numbers found in document records may need to be reformatted before they can be used to locate related registration records. This can render it more difficult to make a positive identification of a work affected by a recorded document, and to locate all documents affecting title in a work.

3. Integration of Copyright Office records with information about works from other sources. There are many privately maintained databases that contain information about large numbers of works under copyright. These include databases maintained by various types of rights management organizations such as ASCAP, BMI, SESAC, the Copyright Clearance Center, the Harry Fox Agency, and Art Resource; by companies that own and license large numbers of copyrighted works, such as Getty Images and Corbis; and by music identification app developers such as Shazam, Midomi, and SoundHound. None of the records contained in these databases is currently linked to registration or document records in the Copyright Office Catalog. The lack of such links means that users of the privately-maintained databases cannot easily find Copyright Office records about the works represented in those databases, and users of the Copyright Office Catalog cannot easily find licensing information contained in the privately-maintained databases, thus making Copyright Office records less commercially useful and relevant.

Links between databases are impeded due to the lack of common work identifiers and metadata standards. Although some recorded documents may include standard work identifiers such as International Standard Musical Work Codes (ISWCs) and International Standard Text Codes (ISTCs), document records in the Copyright Office Catalog do not include these numbers. Registration records in the Copyright Office Catalog may include standard work identifiers, but only about a million of them do, out of over seventeen million records, and many of these codes do not strictly speaking represent works. Rather, they represent physical deposits, such as books identified by International Standard Book Numbers (ISBNs).

C. Concerns about the Sufficiency of Statutory Incentives to Record Transactions. Existing statutory incentives to record documents pertaining to copyright are limited to protection against conflicting transfers and nonexclusive licenses under conditions specified by section 205(d) of the Copyright Act, provision of constructive notice under section 205(c) of the Act, and under the interpretation of some courts, perfection of security interests in registered works. In 1989, Congress removed the requirement to record any documents in the chain of title from a work's author to an owner of that work as a precondition of that owner filing an infringement action. Commenters have questioned whether the remaining incentives to record are sufficient to induce parties to significant copyright transactions to disclose them, and thus to ensure that those who are interested in licensing, purchasing, or gaining security interests in works under copyright can learn of the current state of titles in those works.

III. Subjects of Inquiry

In response to the concerns articulated above, the Copyright Office is currently considering several specific elements of a strategic plan for improvement of recordation services, and for improvement of the quality of copyright information provided to the public through recordation. The Office is particularly interested in comments on the following key elements:

1. A Guided Remitter Responsibility Model of Electronic Recordation. As noted above, the high cost and long processing time currently associated with copyright document recordation stem in large part from a process in which recordation specialists must read paper documents and manually transcribe selected information from them to electronic catalog records that become part of the Copyright Office Catalog. Electronic submission of such information by remitters could certainly reduce the time need to process a document for recordation. However, checking information submitted electronically by remitters against each remitted document itself would still be a time-consuming process. Remitted documents do not come in any particular format, and there is no single standard for the language used in those documents or the order in which documents use language with legal effect. As a result, recordation specialists would still have to spend substantial time reading and interpreting the documents to check submitted catalog entry information, such as the names of the two or more parties to the transaction, the role of the parties as grantors or recipients of the interests being transferred, the nature of the interests that are being transferred, and the titles, registration numbers, or other identifiers of the works in which interests are being transferred.

Because of the process of comparing submitted catalog information against each individual remitted document is irreducibly time-consuming, the Copyright Office is considering adopting a model under which remitters would be responsible in the first instance for the accuracy of the catalog information that they submit electronically. Recordation specialists would not check that information against remitted documents on a case-by-case basis, but would rather engage in systemic quality control, performing targeted spot checks and continuously refining predictive models of which inaccuracies were likely to occur in which types of documents.

While remitters might be worried that inadvertent errors would go uncorrected, electronic submission of information allows for a variety of types of guidance that would greatly reduce the number of inaccuracies entering the Copyright Office Catalog. For example, when a limited number of answers to a question are valid, electronic forms can provide enumerations such a drop-down boxes or buttons, rather than empty fields, to eliminate entries that are invalid or contain typographical errors. Many entries can be validated against lists of valid values or templates of valid formats, and rejected or questioned if the entries are not found in the lists or entered in valid formats. Crucial information can be required to be entered twice, and consistency between the entries can be checked. Parties that record documents frequently could carefully enter repeated information such as names and addresses once, and then access that stored information when recording subsequent documents, to ensure consistency between catalog entries. Such a guided remitter responsibility model could reduce the cost of recordation to a small fraction of the current cost. Electronic recordation fees would be reduced accordingly. Paper-based recordation would continue to be available, but the fee would likely be a multiple of several times that of electronic recordation.

The Copyright Office is seeking comments on this model of electronic recordation. Comments are welcome, not only on features that are unique to this particular model, but on features

that are common to electronic recordation more generally, and that would require statutory or regulatory amendment. These include the acceptance of electronic signatures and the protection of personally identifiable information.

2. Structured Electronic Documents. The Copyright Office is also considering whether to adopt standards for and accept structured electronic documents in which tagged indexing or cataloging information is integrated into the documents themselves. Such documents contain several linked layers or folders. The name of a granting party displayed in the sentence that grants an interest in a copyrighted work, for example, is drawn from a field that identifies that name as a granting party name for cataloguing purposes.

Many government agencies that record documents conveying interests in real property have adopted standards for and are accepting such structured electronic documents. However, many of those agencies record millions of documents a year, whereas the Copyright Office currently records fewer than 15,000 documents a year, though those documents represent transactions involving several hundred thousand works. Moreover, a relatively small number of intermediaries—banks and title insurance companies—are involved in almost every real estate transaction, which makes the adoption and implementation of standards relatively easy, while fewer copyright transactions seem to involve such intermediaries. The Copyright Office is seeking comments on the feasibility of adopting standards for and accepting structured electronic documents pertaining to copyright.

3. Linking of Document Records to Registration Records. The Office is considering whether it should link records of documents pertaining to registered works to the registration records for those works. In particular, it is seeking comments on whether it should require by regulation that document remitters provide registration numbers in a standardized format for all registered works to which their documents pertain.

4. Use of Standard Identifiers and Other Metadata Standards. The Office is considering whether it should adopt incentives or requirements with respect to the provision of standard identifiers, such as International Standard Musical Work Codes and International Standard Audiovisual Numbers, in recorded documents. Comments are welcome regarding the degree to which the provision of such identifiers would aid in uniquely identifying affected works and in linking Copyright Office Catalog information about works to other sources of information about such works. Comments are also welcome on whether such incentives or requirements might be more appropriate or helpful with regard to some types of works than with regard to others. The Office is also considering whether it should adopt or ensure compatibility with metadata standards more broadly, and welcomes comments on the utility of metadata standards and on particular metadata projects that it should consider.

5. Additional Statutory Incentives to Record Documents Pertaining to Copyright. A number of academic commentators have proposed that Congress create additional incentives or requirements for recording documents pertaining to copyright. Congress could reinstate the requirement, dropped in 1989, of recording all documents in the chain of title from the author to the current owner of copyright as a precondition of filing in infringement lawsuit. It could also condition the provision of certain remedies, such as statutory damages and attorneys' fees, on the recordation of any and all documents that transferred ownership of works to those eligible to sue for infringement at the time infringement commenced. Perhaps the broadest proposal is to provide that no transfer of a copyright interest will be valid unless a note or memorandum of that transfer is recorded with sufficient description of the interest granted and identification of the parties from and to whom the interest is granted. The Copyright Office is seeking comment on the benefits and costs of such proposals, and on their compatibility with the treaty commitments of the United States.

Dated: January 10, 2014.

Maria A. Pallante,

Register of Copyrights.

[FR Doc. 2014–00638 Filed 1–14–14; 8:45 am]

BILLING CODE 1410–30–P

LIBRARY OF CONGRESS

Copyright Royalty Board

Notice of Intent To Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt of five notices of intent to audit the 2010, 2011, and 2012 statements of account submitted by Sirius XM Radio, Inc.; IMUV, Inc.; Crystal Media Networks; Pandora Media, Inc.; LoudCity LLC concerning the royalty payments made by each pursuant to two statutory licenses.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707–7658 or email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to perform publicly sound recordings by means of certain digital audio transmissions, subject to limitations. Specifically, this right is limited by two statutory licenses. The section 114 license allows the public performance of sound recordings by means of digital audio transmissions by nonexempt noninteractive digital subscription services and eligible nonsubscription services. 17 U.S.C. 114(f). The section 112 license allows a service to make any necessary ephemeral reproductions to facilitate the digital transmission of the sound recording, including the ephemeral recordings made by entities that transmit performances of sound recordings to business establishments, subject to the limitations set forth in section 114(d)(1)(C)(iv), to facilitate such transmissions. 17 U.S.C. 112(e). The section 112 license also provides a means by which a transmitting entity with a statutory license under section 114(f) may make more than one phonorecord permitted under the exemption set forth in section 112(a). *Id.*

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges (Judges). The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR parts 380 (eligible nonsubscription services (webcasters)), 382 (preexisting subscription services and preexisting satellite digital audio radio services), 383 (new subscription services), and 384 (business establishments). As part of the terms set for these licenses, the Judges designated SoundExchange, Inc., as the organization charged with collecting the royalty payments and statements of account submitted by the various eligible services and distributing the royalties to the copyright owners and performers entitled to receive such royalties under the section 112 and 114 licenses. 37 CFR 380.4(b), 382.13(b), 383.4(a), and 384(b). As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year for the purpose of verifying their royalty payments. *Id.* at

§§ 380.4(b), 382.15(b),[1] and 384.6(b). Prior to conducting an audit, SoundExchange must file with the Judges a notice of intent to audit a licensee and serve the notice on the licensee to be audited. *Id.* at §§ 380.6(c), 382.15(c), and 384.6(c).

On December 20, 2013, SoundExchange filed with the Judges five separate notices of intent to audit IMUC, Inc. (IMUC), Crystal Media Networks (CMN), Pandora Media, Inc. (Pandora) and LoudCity LLC (LoudCity) for their webcasting services, and Sirius XM Radio, Inc. (Sirius XM) for its various services: webcasting service, preexisting satellite digital audio radio service, new subscription service, and business establishment service for the years 2010, 2011, and 2012.

Sections 380.6(c), 382.15(c), and 384.6(c) require the Judges to publish a notice in the **Federal Register** within 30 days of receipt of the notice announcing the Collective's intent to conduct an audit. Today's notice fulfills this requirement with respect to SoundExchange's notices of intent to audit IMUC, CMN, Pandora, LoudCity and Sirius XM, filed December 20, 2013.

Dated: January 10, 2014.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2014–00654 Filed 1–14–14; 8:45 am]

BILLING CODE 1410–72–P

[1] SoundExchange's authority to audit new subscription services falls under § 383.4(a), which states in pertinent part that ''terms governing . . . audit and verification of royalty payments and distributions, cost of audit and verification . . . shall be those adopted by the [Judges] for subscription transmissions and the reproduction of ephemeral recordings by preexisting satellite digital audio radio services in 37 CFR part 382, subpart B.''

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0085]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on May 14, 2013 (78 FR 28244).

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities.''

3. *Current OMB approval number:* 3150–0011.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* As necessary in order for NRC to meet its responsibilities to conduct a detailed review of applications for licenses and amendments thereto to construct and operate nuclear power plants, preliminary or final design approvals, design certifications, research and test facilities, reprocessing plants and other utilization and production facilities, licensed pursuant to the Atomic Energy Act of 1954, as amended (the Act) and to monitor their activities. Reports are submitted daily, monthly, quarterly, annually, semi-annually, and on occasion.

6. *Who will be required or asked to report:* Licensees and applicants for nuclear power plants and research and test facilities, and approximately 100 materials licensees responding to generic communications.

7. *An estimate of the number of annual responses:* 46,098.

8. *The estimated number of annual respondents:* 251.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 4.88M hours; 1.93M hours reporting (an average of 41.8 hrs/response) + 2.96M hours recordkeeping (an average of 19.5K hrs/recordkeeper).

10. *Abstract:* Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' specifies technical information and data to be provided to the NRC or maintained by applicants and licensees so that the NRC may take determinations necessary to protect the health and safety of the public, in accordance with the Act. The reporting and recordkeeping requirements contained in 10 CFR part 50 are mandatory for the affected licensees and applicants.

The public may examine and have copied for a fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by February 14, 2014. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer,
Office of Information and Regulatory Affairs (3150–0011),
NEOB–10202,
Office of Management and Budget,
Washington, DC 20503.

Comments can also be emailed to *Chad_S_Whiteman@omb.eop.gov* or submitted by telephone at 202–395–4718.

The NRC Clearance Officer is Tremaine Donnell, telephone: 301–415–6258.

Dated at Rockville, Maryland, this 9th day of January, 2014.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–00569 Filed 1–14–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Project No. 753; NRC–2013–0173]

TSTF–523, ''Generic Letter 2008–01, Managing Gas Accumulation,'' Using the Consolidated Line Item Improvement Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the availability of Technical Specifications (TS) Task Force (TSTF) Traveler TSTF–523, Revision 2, ''Generic Letter 2008–01, Managing Gas Accumulation,'' for plant-specific adoption using the Consolidated Line Item Improvement Process (CLIIP). Additionally, the NRC staff finds the proposed TS (Volume 1) and TS Bases (Volume 2) changes in Traveler TSTF–523 acceptable for inclusion in the following Standard Technical Specification (STS): NUREG–1430, ''Standard Technical

Specifications Babcock and Wilcox Plants,'' NUREG–1431, ''Standard Technical Specifications Westinghouse Plants,'' NUREG–1432, ''Standard Technical Specifications Combustion Engineering Plants,'' NUREG–1433, ''Standard Technical Specifications General Electric Plants BWR/4,'' and NUREG–1434, ''Standard Technical Specifications General Electric Plants, BWR/6.''

ADDRESSES: Please refer to Docket ID NRC–2013–0173 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0173. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Michelle C. Honcharik, telephone: 301–415–1774, or email: *Michelle.Honcharik@nrc.gov*; or for technical questions please contact Matthew Hamm, telephone: 301–415–1472, email: *Matthew.Hamm@nrc.gov*; both of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: TSTF–523, Revision 2, is applicable to all nuclear power plants. TSTF–523, Revision 2, includes a model application and is available in ADAMS under Accession No. ML113260461. The model safety evaluation for plant-specific adoption of TSTF 523, Revision 2, is available in ADAMS under Accession No. ML13255A169. Minor editorial comments were received from the Notice of Opportunity for Public Comment announced in the **Federal Register** on August 2, 2013 (78 FR 47010). The disposition of comments received is available in ADAMS under Accession No. ML13255A403. The proposed change captures the on-going activities related to system Operability needed to address the concerns in the Generic Letter 2008–01, ''Managing Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems,'' dated January 11, 2008 (ADAMS Accession No. ML072910759). The proposed change modifies the existing Surveillance Requirements (SRs) related to gas accumulation for the emergency core cooling system and adds new SRs on entrained gas to the specifications governing the decay heat removal (also called the residual heat removal and shutdown cooling systems) and the containment spray systems. Similar changes are made to the existing SR on the reactor core isolation cooling system to maintain consistency within the STS. Existing SRs are revised to facilitate the performance of the proposed gas accumulation SR. The TS Bases are revised to reflect the change to the SRs.

Specifically, the Traveler proposed changes to the following sections for each of the six reactor types (corresponding to each of the six NUREGs):

For Babcock and Wilcox Plants, changes were proposed for SRs 3.5.2.2, 3.5.2.3, and 3.6.6.1 as well as the addition of new SRs 3.4.6.3, 3.4.7.4, 3.4.8.3, 3.6.6.4, 3.9.4.2, and 3.9.5.3 to TS 3.4.6, ''RCS Loops—MODE 4,'' TS 3.4.7, ''RCS Loops—MODE 5, Loops Filled,'' TS 3.4.8, ''RCS Loops—MODE 5, Loops Not Filled,'' TS 3.5.2, ''ECCS—Operating,'' TS 3.6.6, ''Containment Spray and Cooling Systems,'' TS 3.9.4, ''DHR and Coolant Circulation—High Water Level,'' and TS 3.9.5, ''DHR and Coolant Circulation—Low Water Level,'' respectively. Associated Bases changes were proposed for the respective limiting conditions for operation (LCO), SR changes and SR additions. Bases changes for TS 3.5.3, ''ECCS—Shutdown,'' were also proposed because they reference the SRs and Bases of TS 3.5.2.

For Westinghouse Plants, changes were proposed for SRs 3.5.2.2, 3.5.2.3, 3.6.6A.1, 3.6.6B.1, 3.6.6C.1, 3.6.6D.1, and 3.6.6E.4, as well as the addition of new SRs 3.4.6.4, 3.4.7.4, 3.4.8.3, 3.6.6A.4, 3.6.6B.4, 3.6.6C.2, 3.6.6D.2, and 3.6.6E.5, 3.9.5.2, and 3.9.6.3 to TS 3.4.6, ''RCS Loops—MODE 4,'' TS 3.4.7, ''RCS Loops—MODE 5, Loops Filled,'' TS 3.4.8, ''RCS Loops—MODE 5, Loops Not Filled,'' TS 3.5.2, ''ECCS—Operating,'' TS 3.6.6A, ''Containment Spray and Cooling Systems (Atmospheric and Dual) (Credit taken for iodine removal by the Containment Spray System),'' TS 3.6.6B, Containment Spray and Cooling Systems (Atmospheric and Dual) (Credit not taken for iodine removal by the Containment Spray System),'' TS 3.6.6C, ''Containment Spray System (Ice Condenser),'' TS 3.6.6D, ''Quench Spray (QS) System (Subatmospheric),'' TS 3.6.6E, ''Recirculation Spray System (Subatmospheric),'' TS 3.9.5, ''RHR and Coolant Circulation—High Water Level,'' and TS 3.9.6, ''RHR and Coolant Circulation—Low Water Level,'' respectively. Associated Bases changes were proposed for the respective LCOs, SR changes and SR additions. Bases changes for TS 3.5.3, ''ECCS—Shutdown'' were also proposed because they reference the SRs and Bases of TS 3.5.2.

For Combustion Engineering Plants, Changes were proposed for SRs 3.5.2.2, 3.5.2.3, 3.6.6A.1, and 3.6.6 B.1, as well as the addition of new SRs 3.4.6.4, 3.4.7.4, 3.4.8.3, 3.6.6A, 3.6.6B.5, 3.9.4.2, and 3.9.5.3 to TS 3.4.6, ''RCS Loops—MODE 4,'' TS 3.4.7, ''RCS Loops—MODE 5, Loops Filled,'' TS 3.4.8, ''RCS Loops—MODE 5, Loops Not Filled,'' TS 3.5.2, ''ECCS Operating,'' TS 3.6.6A, ''Containment Spray and Cooling System (Atmospheric and Dual) (Credit taken for iodine removal by the Containment Spray System),'' TS 3.6.6B, ''Containment Spray and Cooling System (Atmospheric and Dual) (Credit not taken for iodine removal by the Containment Spray System),'' TS 3.9.4, ''SDC and Coolant Circulation—High Water Level,'' and TS 3.9.5, ''SDC and Coolant Circulation—Low Water Level,'' respectively. Associated Bases changes were proposed for the respective LCOs, SR changes and SR additions. Bases changes for TS 3.5.3, ''ECCS—Shutdown,'' were also proposed because they reference the SRs and Bases of TS 3.5.2.

For General Electric BWR/4 Plants, changes were proposed for SRs 3.5.1.1, 3.5.1.2, 3.5.2.3, 3.5.2.4, 3.5.3.1, and 3.5.3.2, as well as the addition of new SRs 3.4.8.2, 3.4.9.2, 3.6.2.3.2, 3.6.2.4.2, 3.9.8.2, and 3.9.9.2 to TS 3.4.8, ''RHR Shutdown Cooling System—Hot Shutdown,'' TS 3.4.9, ''RHR Shutdown Cooling System—Cold Shutdown,'' TS 3.5.1, ''ECCS—Operating,'' TS 3.5.2, ''ECCS—Shutdown,'' TS 3.5.3, ''RCIC System,'' TS 3.6.2.3, ''RHR Suppression

Pool Cooling,'' TS 3.6.2.4, ''RHR Suppression Pool Spray,'' TS 3.9.8, ''RHR—High Water Level,'' and TS 3.9.9, ''RHR—Low Water Level,'' respectively. Associated Bases changes were proposed for the respective LCOs, SR changes, and SR additions.

For General Electric BWR/6 Plants, changes were proposed for SRs 3.5.1.1, 3.5.1.2, 3.5.2.3, 3.5.2.4, 3.5.3.1, 3.5.3.2, and 3.6.1.7.1, as well as the addition of new SRs 3.4.9.2, 3.4.10.2, 3.6.1.7.2, 3.6.2.3.2, 3.9.8.2, and 3.9.9.2 to TS 3.4.9, ''RHR Shutdown Cooling System—Hot Shutdown,'' TS 3.4.10, ''RHR Shutdown Cooling System—Cold Shutdown,'' TS 3.5.1, ''ECCS Operating,'' TS 3.5.2, ''ECCS—Shutdown,'' TS 3.5.3, ''RCIC System,'' TS 3.6.1.7, ''RHR Containment Spray System,'' TS 3.6.2.3, ''RHR Suppression Pool Cooling,'' TS 3.9.8, ''RHR High Water Level,'' and TS 3.9.9, ''RHR—Low Water Level,'' respectively. Associated Bases changes were proposed for the respective LCOs, SR changes, and SR additions.

The NRC staff has reviewed the model application for TSTF–523 and has found it acceptable for use by licensees. Licensees opting to apply for this TS change are responsible for reviewing the NRC's staff safety evaluation and the applicable technical bases, providing any necessary plant-specific information, and assessing the completeness and accuracy of their license amendment request (LAR). The NRC will process each amendment application responding to the Notice of Availability according to applicable NRC rules and procedures.

The proposed changes do not prevent licensees from requesting an alternate approach or proposing changes other than those proposed in TSTF–523, Revision 2. However, significant deviations from the approach recommended in this notice or the inclusion of additional changes to the license require additional NRC staff review. This may increase the time and resources needed for the review or result in NRC staff rejection of the LAR. Licensees desiring significant deviations or additional changes should instead submit an LAR that does not claim to adopt TSTF–523, Revision 2.

Dated at Rockville, Maryland, this 23rd day of December, 2013.

For the Nuclear Regulatory Commission.

Anthony J. Mendiola,

Chief, Licensing Processes Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–00644 Filed 1–14–14; 8:45 am]

BILLING CODE 7590–01–P

PRESIDIO TRUST

Notice of Public Meeting of Fort Scott Council

AGENCY: The Presidio Trust.

ACTION: Notice of public meeting of Fort Scott Council.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given that a public meeting of the Fort Scott Council (Council) will be held from 1:00 p.m. to 4:30 p.m. on Tuesday, January 28, 2014. The meeting is open to the public, and oral public comment will be received at the meeting. The Council was formed to advise the Executive Director of the Presidio Trust (Trust) on matters pertaining to the rehabilitation and reuse of Fort Winfield Scott as a new national center focused on service and leadership development.

SUPPLEMENTARY INFORMATION: The Trust's Executive Director, in consultation with the Chair of the Board of Directors, has determined that the Council is in the public interest and supports the Trust in performing its duties and responsibilities under the Presidio Trust Act, 16 U.S.C. 460bb appendix.

The Council will advise on the establishment of a new national center (Center) focused on service and leadership development, with specific emphasis on: (a) Assessing the role and key opportunities of a national center dedicated to service and leadership at Fort Scott in the Presidio of San Francisco; (b) providing recommendations related to the Center's programmatic goals, target audiences, content, implementation and evaluation; (c) providing guidance on a phased development approach that leverages a combination of funding sources including philanthropy; and (d) making recommendations on how to structure the Center's business model to best achieve the Center's mission and ensure long-term financial self-sufficiency.

Meeting Agenda: In this meeting of the Council, the Acting Director will provide an update on the Cross Sector Leadership Fellows program. There will be a discussion about a strategic plan for the Presidio Institute. The period from 4:00 p.m. to 4:30 p.m. will be reserved for public comments.

Public Comment: Individuals who would like to offer comments are invited to sign-up at the meeting and speaking times will be assigned on a first-come, first-served basis. Written comments may be submitted on cards that will be provided at the meeting, via mail to Linh Tran, Presidio Trust, 1201 Ralston Avenue, San Francisco, CA 94129–0052, or via email to *institute@presidiotrust.gov.* If individuals submitting written comments request that their address or other contact information be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently at the beginning of the comments. The Trust will make available for public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses.

Time: The meeting will be held from 1:00 p.m. to 4:30 p.m. on Tuesday, January 28, 2014.

Location: The meeting will be held at 1202 Ralston Avenue, The Presidio of San Francisco, San Francisco, CA 94129.

FOR FURTHER INFORMATION CONTACT: Additional information is available online at *http://www.presidio.gov/explore/Pages/presidio-institute.aspx.*

Dated: January 7, 2014.

Karen A. Cook,

General Counsel.

[FR Doc. 2014–00492 Filed 1–14–14; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71273; File No. SR–NYSE–2013–83]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Making Effective as of January 1, 2014 Recently Approved Changes to NYSE Rules 451 and 465, and the Related Provisions of Section 402.10 of the NYSE Listed Company Manual Concerning Charges by Member Organizations for Processing and Forwarding Proxy and Other Issuer Communications to Beneficial Owners, and Establishing a Fee Under Certain Conditions for an Enhanced Brokers' Internet Platform

January 9, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 31, 2013, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make effective as of January 1, 2014 recently approved changes to NYSE Rules 451 and 465, and the related provisions of Section 402.10 of the NYSE Listed Company Manual, which (i) provide a schedule for the reimbursement of expenses by issuers to NYSE member organizations for the processing of proxy materials and other issuer communications provided to investors holding securities in street name, (ii) establish a supplemental fee for each account that elects or converts to electronic delivery while having access to an Enhanced Brokers' Internet Platform (''EBIP'') and (iii) set forth further conditions to collection of the EBIP fee. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Following a multi-year effort that began with the formation of the Exchange's Proxy Fee Advisory Committee in September 2010, the Securities and Exchange Commission by order dated October 18, 2013 approved the proposed changes to the schedule for the reimbursement of expenses by issuers to NYSE member organizations for the processing of proxy materials and other issuer communications provided to investors holding securities in street name.[4] Neither the Exchange's rule filing nor the SEC Approval Order made reference to a specific effective date for the new rules, which means that the amended rules took effect on the date of SEC approval. Representatives of the intermediaries that serve almost all the NYSE member organizations involved in effecting proxy distributions to street name shareholders have now brought to the Exchange's attention that they require some lead time in order to be able to prepare to meet the new requirements and implement the new price schedule contained in the amended rules. For the reasons explained more fully below, the Exchange proposes to specify that the rule amendments shall become effective on January 1, 2014 and shall apply to shareholder communication and proxy distributions with respect to which the record date occurs on and after that date. In addition the Exchange proposes that the new supplemental fee of 99 cents for each new account that elects, and each full package recipient among a brokerage firm's accounts that converts to, electronic delivery while having access to an EBIP [5] will be charged in relation to any such election or conversion occurring on or after January 1, 2014.[6] The Exchange also proposes that the changes regarding fees for providing non-objecting beneficial owner information shall apply to requests with respect to record dates occurring on or after January 1, 2014.

As noted in the Proxy Fee Rule Filing, a single intermediary, Broadridge Financial Solutions, Inc. (''Broadridge''), currently handles almost all proxy processing and distribution to street name shareholders in the U.S. Broadridge enters into contracts with NYSE member organizations to provide distribution and vote collection services to those firms, and acts as billing and collection agent for these NYSE member organizations in connection with reimbursements provided by the issuers whose materials are distributed. Subsequent to issuance of the SEC Approval Order, Broadridge informed the Exchange that the fee changes effected by the Proxy Fee Rule Filing will require significant changes to Broadridge's financial reporting, collection and billing systems. Broadridge estimates that these changes will require over 6100 hours of work, including testing and quality assurance.

Specifically Broadridge has advised the Exchange that implementation of the new fee schedule will involve changes to invoicing applications and financial reporting systems to reflect all the multiple changes to the fee schedule, including changes in some twenty-five modules within the billing platform for invoicing, accruals, reporting and interfaces to front-end systems to source the data. This work is estimated to take approximately 1,200 hours. Additionally, systems work of approximately 2,250 hours will be needed regarding share range and voted/unvoted shares data to handle the change that permits issuers to request stratified NOBO lists. Broadridge also expects to implement a tracking system for broker clients with qualified EBIPs to identify eligible positions that may trigger the one-time EBIP fee and ensure that the fee is only charged one-time, and maintain five years of historical data, e-consent and vote participation records. Broadridge estimates that this work will require approximately 2,000 hours. Broadridge will also do development work on its client reporting systems, including incorporation of fee schedule changes for invoice presentment, and display of financial information for client and internal web-services, estimating that this will require approximately 700 hours.

Broadridge also notes that its NYSE member organization clients will be required to program their systems to distinguish managed accounts of five shares or less and fractional shares in all accounts to support the rule change that requires that such accounts be processed at no charge to the issuer. Broadridge also notes that it will have to review its contracts with all its NYSE member organization clients to determine what amendments may be necessary, for example to update fee schedules that are included within the contracts.

Broadridge notes that it will expect to test the system changes it is required to make to the same high standards it uses for all its systems conversions. The impact of Broadridge's systems is widespread, covering a significant number of member organizations that

[4] Securities Exchange Act Release No. 70720, October 18, 2013, 78 FR 63530 (''SEC Approval Order''), approving SR–NYSE–2013–07 (''Proxy Fee Rule Filing'').

[5] The EBIP fee does not apply to electronic delivery consents captured by issuers. For additional restrictions on collection of the EBIP fee, see Part 7 of NYSE Rule 451 and Section 402.10 of the Listed Company Manual.

[6] The Exchange notes that the Proxy Fee Rule Filing contained a placeholder to specify the date on which the EBIP fee will cease to be in effect. The Exchange proposes to amend Rule 451 and Section 402.10 to specify that the EBIP fee will cease to be in effect on December 31, 2018.

are its clients, and the approximately 12,000 issuers whose materials are distributed.

The Exchange did address the issue of whether to specify an effective date for the proxy fee rule changes in its response to comments dated May 17, 2013.[7] It noted that it had requested Broadridge to specify whether they required a specific amount of lead time to implement the proposed changes, and that Broadridge had stated in their comment letter that ''Broadridge is prepared to implement the new fee structure soon after the proposal is approved by the SEC.'' [8] Broadridge now indicates that it does in fact require lead time for the reasons noted herein.

At the Exchange's request, Broadridge estimated the impact of a delay in the effective date on issuers.[9] Looking at all corporate issuers that have (or are likely to have) record dates between October 18, 2013 and December 31, 2013, Broadridge estimated there were 774 issuers in this category, of whom 92% would experience a fee impact, up or down, of less than $1,000. Of the remaining 8% of issuers that Broadridge estimates would experience a fee impact, up or down, of more than $1,000, approximately 6.6%, (or 51 issuers) [10] will pay higher fees as a result of the delay and 1.7% (or 13 issuers) [11] will pay lower fees as a result of the delay.

The Exchange notes that a large majority of record dates will occur after the January 1, 2014 implementation date for meetings occurring during 2014 and that the impacted companies represent only a small minority of issuers that distribute proxies.

In light of the foregoing, the Exchange believes that an effective date of January 1, 2014 would be suitable to allow time for industry development work needed to implement the new fees in an orderly manner, while still permitting the changes to go into effect promptly.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act'') generally [12] and Sections 6(b)(5) [13] and 6(b)(8) [14] of the Act in particular. Section 6(b)(5) [15] requires, among other things, that exchange rules promote just and equitable principles of trade and that they are not designed to permit unfair discrimination between issuers, brokers or dealers. Section 6(b)(8) prohibits any exchange rule from imposing any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed amendment is not designed to permit unfair discrimination within the meaning of Section 6(b)(5), as all issuers are subject to the same fee schedule and the Exchange attempted to estimate the impact of a short delay of the effectiveness of the new fees, and found that impact on the vast majority of issuers to be relatively minimal. Nor will member organizations and their agents derive any significant financial benefit from that delay. Rather, for member organizations the sole purpose and sole significant effect of the proposed delay in implementing the amended fees would be to provide such member organizations and their agents with an opportunity to accomplish the development work necessary to administer the new fees in an orderly fashion.

The Exchange believes that the proposed amendment does not impose any unnecessary burden on competition within the meaning of Section 6(b)(8). The short delay in effectiveness will provide all industry participants with time to prepare to operate under the new fees. Broadridge, as the largest of the intermediaries will have the largest number of clients impacted by the new fees, but presumably also has the significant resources needed to accomplish the work necessary. Other intermediaries have much smaller numbers of clients, and so presumably some greater ability to handle billing and client support in a more manual fashion for the time needed to transition their systems. For the foregoing reasons, the Exchange believes that its proposed fee schedule does not place any unnecessary burden on competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. All of the NYSE member organizations and their service providers will benefit from the additional time to prepare for the implementation of the amended fees and none of them will derive any advantage from that delay in relation to any other market participant.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest

[7] *See* letter to Elizabeth M. Murphy, Secretary, Commission from Janet McGinnis, EVP & Corporate Secretary, NYSE Euronext, dated May 17, 2013 (''NYSE Letter'').

[8] In the NYSE Letter, the Exchange also noted that SIFMA, in a March 18, 2013 comment letter, had suggested an effective date in January 2014. The Exchange did not believe that such an extensive lead time would be necessary, given that Broadridge appeared able to be ready more quickly.

[9] Broadridge based its fee impact estimates on invoices from the prior year's proxy season.

[10] The impact on the 6.6% of issuers is that they will not benefit during this period from the new fee schedule which will result in their paying higher fees, in the aggregate, of 13.2%. The median percentage impact on this group will be higher fees of 13.0%.

[11] The fees of the 13 issuers whose fees will benefit from the delay will be a reduction of fees, in the aggregate, by 4.1%, with a median fee decrease of 5.0%.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(8).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to Exchange give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

because such waiver should help minimize the potential for investor confusion as to the applicable proxy fees as well as ensure that the rules are clear on which fees apply, and when. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[21] of the Act to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2013–83 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–NYSE–2013–83. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2013–83 and should be submitted on or before February 5, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00582 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

[20] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78s(b)(2)(B).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71266; File No. SR–NYSEArca–2013–144]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating To Listing and Trading of Shares of the ETSpreads HY Long Credit Fund, the ETSpreads HY Short Credit Fund, the ETSpreads IG Long Credit Fund and the ETSpreads IG Short Credit Fund Under NYSE Arca Equities Rule 8.600

January 9, 2014.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 27, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): the ETSpreads HY Long Credit Fund, the ETSpreads HY Short Credit Fund, the ETSpreads IG Long Credit Fund and the ETSpreads IG Short Credit Fund. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the following under NYSE Arca Equities Rule 8.600 which governs the listing and trading of Managed Fund Shares[4]: the ETSpreads HY Long Credit Fund, the ETSpreads HY Short Credit Fund, the ETSpreads IG Long Credit Fund and the ETSpreads IG Short Credit Fund (each, a ''Fund'' and collectively, the ''Funds'').[5] The Shares

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission previously approved listing and trading on the Exchange of actively managed funds under Rule 8.600. *See* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order

Continued

will be offered by Exchange Traded Spreads Trust (the ''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[6] ETSpreads, LLC (the ''Adviser'') is the investment adviser for each Fund and is registered as an ''investment adviser'' under the Investment Advisers Act of 1940 (the ''Advisers Act'').[7] ALPS Distributors, Inc. (the ''Distributor'') will serve as the principal underwriter and distributor for each Fund. The Distributor is a broker-dealer registered under the Act and is not affiliated with the Adviser. Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[8] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. The Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer and has implemented a ''fire wall'' with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Funds' portfolios. If the Adviser elects to hire a sub-adviser for the Funds that is also affiliated with a broker-dealer, such sub-adviser will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolios. In the event (a) the Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Description of the Funds

According to the Registration Statement and as described below, each Fund will seek to provide exposure to a long or short position with respect to a specific segment of the North American corporate credit markets.[9] The strategy of each of the Funds involves buying and selling credit default swaps (''CDS'') to outperform, before fees and expenses, either a long or short position tied to its benchmark index. Currently, each Fund will use either the Markit CDX North American Investment Grade 5-year Total Return Index or the Markit CDX North American High Yield 5-year Total Return Index (each an ''Index'' or a ''CDX Index'' and together the ''Indices'') as its benchmark. A ''CDX Index'' is an index comprised of multiple CDS with different ''Reference Entities'' (as described below), all of which have equal weighting in the index. The Markit CDX North American Investment Grade 5-year Total Return Index is designed to track the credit quality of 125 investment grade North American debt issuers or the unsubordinated debt obligations of such debt issuers. The Markit CDX North American High Yield 5-year Total Return Index is designed to track the credit quality of 100 high yield North American debt issuers or the unsubordinated debt obligations of such debt issuers. None of the Funds will use leverage and each Fund will maintain sufficient assets at all times so that it can meet its payment, margin or other obligations without borrowing. In general, no leverage means that, for each $100 million of assets under management, the relevant Fund will be a net buyer or seller (consistent with its investment objective) of protection on $100 million. While actual percentages will vary, it is generally expected that less than twenty percent of a Fund's assets will be in CDS and non-principal investments (as described below), and the balance of a Fund's assets will be U.S. Treasury securities, money market instruments and cash.

To meet its respective investment objective, under normal market conditions,[10] each Fund intends to invest substantially all of its assets in (i) CDS that are cleared by a clearing organization and which are either (a) CDS index swaps, including swaps based on the CDX Index, (''CDX Index swaps''), based on multiple CDS relating to the debt issued by different Reference Entities,[11] or (b) ''Single Name CDS'' (as described below), which are CDS that relate only to the debt issued by a single

approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 61365 (January 15, 2010), 75 FR 4124 (January 26, 2010) (SR–NYSEArca–2009–114) (order approving listing and trading of Grail McDonnell Fixed Income ETFs); 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR–NYSEArca–2009–79) (order approving listing and trading of five fixed income funds of the PIMCO ETF Trust); 63329 (November 17, 2010), 75 FR 71760 (November 24, 2010) (SR–NYSEArca–2010–86) (order approving listing and trading of Peritus High Yield ETF).

[6] The Trust is registered under the 1940 Act. On April 9, 2013, the Trust filed with the Commission an amendment to the registration statement for the Funds on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Funds (File Nos. 333–148886 and 811–22177) (''Registration Statement''). The Trust filed an Amended and Restated Application for an Order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–13486), dated January 9, 2013 (''Exemptive Application''). The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 30378 (February 5, 2013) (''Exemptive Order''). Investments made by the Funds will comply with the conditions set forth in the Exemptive Order.

[7] 15 U.S.C. 80b–1.

[8] An investment adviser to an open-end fund is required to be registered under the Advisers Act. As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[9] With respect to a particular credit market, a ''long position'' means that an investor expects that the issuers of debt securities in a particular debt market will be able to meet their obligations in accordance with the terms of such debt securities in full and on-time. With respect to a particular credit market, a ''short position'' means that an investor expects there will be an increased likelihood that the issuers of debt securities in a particular debt market will not be able to meet their obligations in accordance with the terms of such debt securities in full or on-time.

[10] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; events or circumstances causing a disruption in market liquidity or orderly markets; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[11] A ''Reference Entity'' is the entity whose debt underlies a Single Name CDS (as described below) and can be a corporation, government or other legal entity that issues debt of any kind. CDX Index swaps are based on a particular index that includes Single Name CDS of several Reference Entities.

Reference Entity [12]; (ii) futures contracts [13] based on CDS or other similar futures contracts; and (iii) obligations of, or those guaranteed by, the United States government with a maturity of less than six years (''U.S. Treasury securities''), money market instruments, and cash.

General Description of Swaps

A Fund will enter into swap agreements to invest in a specific segment of the U.S. corporate credit market without owning or taking physical custody of the underlying debt securities or other interests. The initial counterparty to any CDS will typically be a bank, investment banking firm or broker-dealer. If the CDS is cleared, the swap with the initial counterparty will be replaced with a swap with the clearing house.

Swap agreements typically are settled on a net basis, which means that the two payment streams are netted out, with a Fund receiving or paying, as the case may be, only the net amount of the two payments. Payments may be made at the conclusion of a swap agreement or periodically during its term.

Swap agreements do not involve the delivery of securities or other underlying assets. Accordingly, the risk of loss with respect to swap agreements is limited to the net amount of payments that a Fund is contractually obligated to make. If a swap counterparty defaults, a Fund's risk of loss consists of the net amount of payments the Fund is contractually entitled to receive, if any. The net amount of the excess, if any, of a Fund's obligations over its entitlements with respect to each equity swap will be accrued on a daily basis, and an amount of cash or liquid assets having an aggregate net asset value (''NAV'') at least equal to such accrued excess will be maintained in a segregated account by the Fund's custodian, The Bank of New York Mellon.

According to the Registration Statement, the CDS market has grown substantially in recent years with a large number of banks and investment banking firms acting both as principals and as agents utilizing standardized swap documentation. As a result, the CDS market has become relatively liquid in comparison with the markets for other swaps which are traded in the over-the-counter (''OTC'') market, based upon the number of transactions and notional value.[14] According to data published on The Depository Trust & Clearing Corporation (''DTCC'') Trade Information Warehouse Web site, over 2 million CDS contracts (including both single-name and multi-name products) have open positions.[15] Recent data provided to the CFTC indicates daily transaction volumes of over 1500 transactions in CDS based on the family of CDX Indices.[16] Overall, the CDS marketplace has almost $29 trillion in notional dollar amount outstanding across both single and multi-name products.[17] CDS on standardized indices (including the CDX Indices) accounts for about $10 trillion of the global OTC market in notional dollar amount outstanding.[18] CDS market risk transaction activity, as measured by notional amount traded, increased 15% in the 2013 period versus the 2012 period.[19] Growth in notional volumes and trade counts related to new market transaction activity was driven by an increase in CDS index trading.[20] The Adviser, under the supervision of the Trust's Board of Trustees, is responsible for determining and monitoring the liquidity of Fund transactions in swap agreements.

The use of swap agreements, including credit default swaps, is a highly specialized activity which involves investment techniques and risks different from those associated with ordinary portfolio securities transactions. If a counterparty's creditworthiness declines, the value of the swap would likely decline. Moreover, there is no guarantee that a Fund could eliminate its exposure under an outstanding swap agreement by entering into an offsetting swap agreement with the same or another party.

To reduce the credit risk that arises in connection with investments in non-cleared swaps (as discussed below), each of the Funds will generally enter into an agreement with each counterparty based on a Master Agreement published by the International Swaps and Derivatives Association, Inc. (''ISDA'') that provides for the netting of its overall exposure to its counterparty. The Adviser will assess or review, as appropriate, the creditworthiness of each potential or existing counterparty to an OTC contract pursuant to guidelines approved by the Adviser. Furthermore, the Adviser on behalf of the Funds will only enter into OTC contracts with counterparties who are, or are affiliates of, (a) banks regulated by a United States federal bank regulator, (b) swap dealers or securities based swap dealers regulated by the CFTC and/or the Commission, (c) broker-dealers regulated by the Commission, or (d) insurance companies domiciled in the United States. Existing counterparties will be reviewed periodically by the Adviser. The Funds also may require that the counterparty be highly rated and/or provide collateral or other credit support.

Single Name CDS

According to the Registration Statement, Single Name CDS are instruments that allow the buyer to purchase protection against a credit event such as a default on debt repayment obligations for a specific Reference Entity and a seller to guarantee protection against such event for the same entity. Because market perceptions about the risk of default, or another credit event, change over time, the prices of Single Name CDS for any given day are likely to change value. Bond prices also change in value over time and some of this change is due to changes in the strength of the underlying credit of the issuer. CDX Index swaps are created in order to provide exposure to the creditworthiness of a pre-designed market segment of the credit markets such as the investment grade debt market or the high yield debt market.

In addition, in the event of a credit event under a CDS, including a CDS underlying the CDX Indices, the CDS would typically be cash settled via auction conducted under protocols published by ISDA, although physical settlement (*i.e.,* an actual loan/bond

[12] The Adviser represents that Fund transactions in CDS cleared through a clearing organization that have been designated by the Commodity Futures Trading Commission (''CFTC'') or the Commission as ''made available to trade'' will be executed on exchanges or on a swap execution facility subject to CFTC and/or Commission oversight or regulation.

[13] The Funds intend to invest only in futures contracts traded on exchanges that are subject to CFTC and/or Commission oversight or regulation.

[14] *See* 2013 ISDA Operations Benchmarking Survey, April 25, 2013, at p. 4 (available at *http://www2.isda.org/functional-areas/research/surveys/operations-benchmarking-surveys/).*

[15] *See* DTCC Trade Information Warehouse credit derivatives data for the week ending 11–29–2013 (available at *http://www.dtcc.com/products/derivserv/data_table_i.php*).

[16] *See ''Clearing Requirement Determination Under Section 2(h) of the CEA'',* 77 FR 74284, 74294 (December 13, 2012).

[17] *Id. See also,* Bank for International Settlements survey on statistics on the OTC derivatives market as of November 7, 2013 (also available at *http://www.bis.org/statistics/otcder/dt1920a.pdf*).

[18] *Id.*

[19] Based on market risk transaction activity (as measured by the volume of trading (using both transaction counts and notional amounts traded)) from the DTCC Trade Information Warehouse for the periods of February through July in 2011, 2012, and 2013. See CDS Market Summary: Market Risk Transaction Activity—ISDA Research Notes, October 2013 (available at *http://www2.isda.org/attachment/NTk0MQ==/CDS%20Research%20Note%20final%202013-10-01.pdf*).

[20] *Id.*

trade) is possible. Generally, the amount of the cash settlement is the difference between the market value of the Reference Entity debt obligation referred to in the CDS and the face value of the debt obligation, and that amount is payable by the protection seller to the protection buyer. The Funds intend to use cash settlement only and the Single Name CDS underlying the CDX Indices will be required to be cash settled.

Ownership of a CDS can be transferred with the consent of the other party to the swap, or in the case of a cleared swap, the customer's futures commission merchant (''FCM'') to and in accordance with the relevant clearing organization regulations. There is a well-developed market for transfer of CDS, particularly cleared swaps, to third parties with the consent of the original parties to the swap (such transfers which require all parties' consent are commonly known as a novation). Obtaining such consent is not guaranteed and may result in a payment above the market value of the swap. Under such circumstances, the Adviser generally expects that it will enter into an offsetting cleared CDS to reduce or eliminate cleared swap positions rather than seek the consent of its counterparty for a transfer or early termination of a swap at a non-market price. The Adviser may unwind non-cleared CDS through termination or transfer of its position with a particular counterparty rather than enter into an offsetting trade with a second counterparty in order to avoid incurring additional credit exposure to the second counterparty and to avoid the possibility that values of the respective positions will differ, although it may enter into an offsetting transaction if the Adviser believes such a transaction is in the best interest of Fund shareholders. Each Fund will reduce the risk that it will be unable to close out a futures contract by only entering into futures contracts that are traded on a national futures exchange regulated by the CFTC.

CDS are entered into among banks, securities firms, hedge funds, corporations, insurance companies, mutual funds, pension funds, and other institutional investors.[21] CDS pricing is widely available to market participants in the equity and fixed income markets via Markit, Credit Market Analysis Ltd. (''CMA'') and Bloomberg L.P. (''Bloomberg''). Daily trading volume of cleared swaps transacted via the ICE Clear Credit LLC[22] and CME Clearing[23] clearing organizations is available through their respective Web sites. The Trust represents that, to its knowledge, no comprehensive information on weekly trading volume for non-cleared CDS is available, although ISDA does compile information about this market on an annual basis.[24]

Margin and Collateral

Cleared CDS are subject to initial and variation margin requirements set by the clearing organization that are based on mark-to-market prices and other factors.[25] In addition to this protection, additional initial margin may also be required by an FCM to address its credit exposure as guarantor to the clearing organization of the Funds' positions at the clearing organization throughout the life of the swap or futures contract.

Subsequent to the payment of initial margin, variation margin is either payable by or returned to the Funds on a daily basis, based on the change in the value of the swap positions and the degree to which the Funds are in or out of the money with respect to their positions. The purpose of this is to minimize the credit exposure to the FCM and the clearing organization. If the Funds fail to post margin, the clearing organization can liquidate the Funds' positions. As such, the counterparty exposure is limited to the change in value since the last margin posted.

In the case of non-cleared swaps, the 1940 Act requires that margin equal to the market value of the swap be posted and held by the Funds' custodian, The Bank of New York Mellon, on a daily basis. As with variation margin for cleared swaps, margin would be payable by or returned to the Funds based on the change in the value of the swap positions and the degree to which the Funds are in or out of the money with respect to their positions.

Collateral or margin required to be provided for either cleared or non-cleared CDS will generally represent a small portion of such swap's aggregate notional value, and, accordingly, each Fund will generally invest the balance of its assets in obligations of the U.S. government, cash or cash equivalent assets. These assets will be available to satisfy subsequent margin calls on the Fund, as well as available for redemptions of Fund Shares and to pay its coupon or other payment obligations under its CDS.[26]

Principal Investments of the Funds

ETSpreads IG Long Credit Fund

According to the Registration Statement, the investment objective of the Fund is to provide long exposure to the credit of a diversified portfolio of North American investment grade debt issuers. With respect to a particular credit market, a ''long position'' means that an investor expects that the issuers of debt securities in a particular debt market will be able to meet their obligations in accordance with the terms of such debt securities in full and on-time. The Fund will invest, under normal market conditions, substantially all of its assets in (i) CDS cleared by a clearing organization which are either (a) CDS index swaps based on multiple CDS relating to the debt issued by different Reference Entities, or (b) Single Name CDS based on CDS relating to the debt issued by a single Reference Entity; (ii) futures contracts based on CDS or other similar futures contracts; and (iii) U.S. Treasury securities, money market instruments, and cash. In order to gain exposure to the investment grade credit market, the Fund will normally be a net protection seller under its CDS, and will be required to make payments to the protection buyer when a specified adverse credit event occurs relating to a Reference Entity.

If the Fund is successful in meeting its objective, its NAV should generally increase when the North American investment grade credit market is improving. Conversely, its NAV should

[21] The Adviser represents that the major dealer participants in the CDS/CDX Index swap market are: Bank of America; Barclays; BNP Paribas; Citibank; Credit Suisse; Deutsche Bank; Goldman Sachs; HSBC; JPMorgan; Morgan Stanley; Nomura; UBS; and Wells Fargo.

[22] ICE Clear Credit LLC is a subsidiary of the IntercontinentalExchange, Inc. (''ICE''). ICE Clear Credit LLC is registered with the CFTC as a clearing house for credit default swaps, including CDX Index swaps.

[23] CME Clearing is a division of Chicago Mercantile Exchange Inc. (''CME''), which is a subsidiary of the CME Group Inc. CME is registered with the CFTC as a clearing house for credit default swaps, including CDX Index swaps.

[24] Source: ISDA Market Surveys (*http://www2.isda.org/functional-areas/research/surveys/market-surveys/*).

[25] The Funds intend to use ICE Clear Credit and CME Clearing as the clearing organizations for their cleared CDS. According to ICE Clear Credit, it employs a stress-based, five-factor methodology to determine the initial margin requirements. The main elements of the methodology are (i) liquidity and concentration requirements, (ii) basis risk requirements, (iii) jump-to-default requirements, (iv) risk factor spread response requirements, and (v) interest rate and recovery rate sensitivity requirements. According to CME Clearing, it determines initial margin requirements using a methodology that addresses six risk factors including overall risk of credit market, portfolio risk, idiosyncratic risk, and liquidity risk. Currently, ICE Clear Credit and CME Clearing determine margin on a net basis on a daily basis.

[26] In addition to its margin payments to the protection seller, a protection buyer is required to pay an amount equal to the value of the CDS on the date acquired and thereafter must pay periodic fixed coupon payments determined by the clearing organization, in the case of cleared CDS, or as agreed to with its counterparties for non-cleared CDS.

generally decrease when the North American investment grade credit market is deteriorating.

ETSpreads IG Short Credit Fund

According to the Registration Statement, the investment objective of the Fund is to provide short exposure to the credit of a diversified portfolio of North American investment grade debt issuers. With respect to a particular credit market, a ''short position'' means that an investor expects there will be an increased likelihood that the issuers of debt securities in a particular debt market will not be able to meet their obligations in accordance with the terms of such debt securities in full or on-time. The Fund will invest, under normal market conditions, substantially all of its assets in (i) CDS cleared by a clearing organization which are either (a) CDS index swaps based on multiple CDS relating to the debt issued by different Reference Entities, or (b) Single Name CDS based on CDS relating to the debt issued by a single Reference Entity; (ii) futures contracts based on CDS or other similar futures contracts; and (iii) U.S. Treasury securities, money market instruments, and cash. In order to gain short exposure to the investment grade credit market, the Fund will normally be a net protection buyer under its CDS, and therefore will be required to make the ongoing payments specified under such contracts that represent the cost of purchasing protection from adverse credit events relating to a Reference Entity.

If the Fund is successful in meeting its objective, its NAV should generally decrease as the North American investment grade credit market is improving. Conversely, its NAV should generally increase as the North American investment grade credit market is deteriorating.

ETSpreads HY Long Credit Fund

According to the Registration Statement, the investment objective of the Fund is to provide long exposure to the credit (*i.e.,* the likelihood that a borrower performs its payment obligations) of a diversified portfolio of North American high yield debt issuers. With respect to a particular credit market, a ''long position'' means that an investor expects that the issuers of debt securities in a particular debt market will be able to meet their obligations in accordance with the terms of such debt securities in full and on-time. The Fund will invest, under normal market conditions, substantially all of its assets in (i) CDS cleared by a clearing organization which are either (a) CDS index swaps based on multiple CDS relating to the debt issued by different Reference Entities, or (b) Single Name CDS based on CDS relating to the debt issued by a single Reference Entity; (ii) futures contracts based on CDS or other similar futures contracts; and (iii) U.S. Treasury securities, money market instruments, and cash. In order to gain exposure to the high yield credit market, the Fund will normally be a net protection seller under its CDS, *i.e.,* it will be required to make payments to the protection buyer when a specified adverse credit event occurs relating to a Reference Entity.

If the Fund is successful in meeting its objective, its NAV should generally increase when the North American high yield credit market is rallying, which means that credit quality is improving and differences or ''spreads'' between the returns on high yield debt securities generally and the returns on debt securities with comparable maturities that are essentially free of credit risk (such as U.S. Treasury securities) are decreasing or ''tightening.'' Conversely, its NAV should generally decrease when the North American high yield credit market is falling (going down), credit quality is deteriorating, and spreads are increasing or ''widening.''

ETSpreads HY Short Credit Fund

According to the Registration Statement, the investment objective of the Fund is to provide short exposure to the credit of a diversified portfolio of North American high yield debt issuers. With respect to a particular credit market, a ''short position'' means that an investor expects there will be an increased likelihood that the issuers of debt securities in a particular debt market will not be able to meet their obligations in accordance with the terms of such debt securities in full or on-time. The Fund will invest, under normal market conditions, substantially all of its assets in (i) CDS cleared by a clearing organization which are either (a) CDS index swaps based on multiple CDS relating to the debt issued by different Reference Entities, or (b) Single Name CDS based on CDS relating to the debt issued by a single Reference Entity; (ii) futures contracts based on CDS or other similar futures contracts; and (iii) U.S. Treasury securities, money market instruments, and cash. In order to gain short exposure to the high yield credit market, the Fund will normally be a net protection buyer under its CDS, *i.e.,* it will be required to make the ongoing payments specified under such contracts that represent the cost of purchasing protection from adverse credit events relating to a Reference Entity.

If the Fund is successful in meeting its objective, its NAV should generally decrease when the North American high yield credit market is improving. Conversely, its NAV should generally increase as the North American high yield credit market is deteriorating.

Non-Principal Fund Investments

While each Fund will invest, under normal market conditions, substantially all of its assets as described above under each Fund's principal investment strategies, each Fund may invest in, to the extent that CDS cleared by a clearing organization are not available, fully collateralized non-cleared CDS transactions [27], and (i) to the extent available, options that are cleared through a clearing organization regulated or subject to the oversight of the CFTC or the Commission [28] and (ii) if options cleared through a clearing organization are not available, fully collateralized non-cleared OTC options, in each case, relating to the following: options on CDS, options on CDS futures, options on CDS indexes and options on U.S. Treasury securities for *bona fide* hedging; attempting to offset changes in the value of its principal investments held or expected to be acquired or be disposed of; attempting to gain exposure to a particular market, index or instrument; or other risk management purposes.

Each Fund may also utilize other types of swap agreements, including, but not limited to, total return swaps on debt, equity or CDS or indexes relating to the foregoing, bond or corporate credit index swaps, and interest rate swaps. A Fund may utilize these swap agreements in an attempt to gain exposure to the investments used to meet its investment objective in a market without actually purchasing

[27] The Adviser represents that each of the Funds' CDS transactions, whether cleared or uncleared, and the options described above will be subject to CFTC and/or Commission reporting, including the reporting of detailed transaction data to swap data repositories (''SDRs) subject to CFTC and/or the Commission oversight or regulation. *See* Swap Data Recordkeeping and Reporting Requirements, 77 F.R. 2136 (January 13, 2012). The Adviser represents that all swap transaction data, including data on options, will be available to the CFTC and the Commission and certain bank or other regulators. In addition, with certain exceptions (e.g., delays for large block trades), a portion of each CDS transaction's data will be available to major market data vendors on a real time, though anonymous, basis. *See* Real-Time Public Reporting of Swap Transaction Data, 77 F.R.1182 (January 9, 2012).

[28] The Adviser represents that Fund transactions in options cleared through a clearing organization that have been designated by the CFTC or the Commission as ''made available to trade'' will be executed by the Funds on an exchange or on a swap execution facility subject to CFTC and/or Commission oversight or regulation.

those investments, or to hedge a position.

Each Fund may invest in the securities of other investment companies consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation or order of the Commission or interpretation thereof.

Each Fund may enter into repurchase agreements with financial institutions, which may be deemed to be loans. Each Fund follows certain procedures designed to minimize the risks inherent in such agreements. These procedures include effecting repurchase transactions only with large, well-capitalized and well-established financial institutions whose condition will be continually monitored by the Adviser. In addition, the value of the collateral underlying the repurchase agreement will always be at least equal to the repurchase price, including any accrued interest earned on the repurchase agreement.

The Benchmark Indices

The Markit CDX North American Investment Grade 5-year Total Return Index is composed of credit default swaps relating to 125 equally-weighted, investment grade, unaffiliated Reference Entities. All entities are domiciled in North America. A new series of the Index is issued every six months in March and September, which effectively serves as a rebalancing to reflect the then current corporate credit markets.

The Markit CDX North American High Yield 5-year Total Return Index is composed of credit default swaps relating to 100 equally-weighted, non-investment grade, unaffiliated Reference Entities. All entities are domiciled in North America. A new series of the Index is issued every six months in March and September, which effectively serves as a rebalancing to reflect the then current corporate credit markets.

Benchmark Methodology and Construction

Markit Group Limited (''Markit'') has developed and published specific rules for each Index, most recently updated on March 2013 in the publicly available ''Markit CDX High Yield & Markit CDX Investment Grade Index Rules'' [29] (the ''Rules'').

The composition of an Index shall be determined by Markit as the ''Administrator'' in accordance with the Rules, which are formulaic, provided that in making any determination the Administrator may depart from, or otherwise make an exception to, the Rules. Generally, the composition of membership in each Index is determined by selecting unique Reference Entities with the most liquid credit derivatives based on trailing six-month trading volume published on DTCC Trade Information Warehouse. Once a series of an Index is issued, no additional companies are added to the Index as component members of such Index.

Component members of an Index may be removed under certain circumstances, including a credit event such as a default. When a new series of an Index is released every six months, the component members of an Index are updated to reflect changes in the markets and the new component members are approved by the Administrator and published on Markit's Web site.

Each Reference Entity has an equal weighting in the applicable CDX Index. A list of Reference Entities for the CDX Indices is published from time to time by or on behalf of Markit.

Other Fund Characteristics

Each of the Funds may hold up to an aggregate amount of 15% of its net assets in illiquid investments (calculated at the time of investment) in accordance with Commission staff guidance. The Funds will monitor their portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will take appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of a Fund's net assets are held in illiquid investments. Illiquid investments include investments subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[30]

The Funds will not invest in any equity securities except for investment company securities.

The Funds will be non-diversified, which means that a Fund may invest its assets in a smaller number of issuers than a diversified fund.[31]

Each of the Funds' investments, including derivatives, will be consistent with its investment objective.

Net Asset Value

The NAV per Share of a Fund will be computed by dividing the value of the net assets of the Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of Shares of the Fund outstanding, rounded to the nearest cent. Expenses and fees, including without limitation, the management, administration and distribution fees, will be accrued daily and taken into account for purposes of determining NAV per Share. The NAV per Share for a Fund will be calculated by The Bank of New York Mellon and determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m., Eastern Time (''E.T.'')) on each day that the Exchange is open.

In computing a Fund's NAV, a Fund's holdings will be valued based on their last readily available market price. Price information on listed investments will be taken from the exchange where the investment is primarily traded. The Adviser intends to use clearing organization settlement prices, e.g., Markit ICE Settlement Prices or CME Clearing CDS Settlement Prices (determined as of 4:00 p.m. E.T.) for the valuation of its CDS. The Adviser will use the closing prices on the relevant futures exchanges (determined at the earlier of the close of such futures exchanges or 4:00 p.m.) for the valuation of its futures contracts based on CDS or other similar futures contracts. The Adviser intends to use clearing organization settlement prices for the valuation of its options that are cleared through a clearing organization regulated or subject to the oversight of the CFTC or the Commission. Money market instruments and U.S. Treasury securities will be valued based on price quotations or other equivalent indications of value provided by a third-party pricing service.

The Adviser will calculate or determine the value of all other investments using market quotations, if available, from third-party pricing

[29] *http://www.markit.com/assets/en/docs/products/data/indices/credit-index-annexes/Markit%20CDX%20HY%20and%20IG%20Rules%20Mar%202013.pdf*

[30] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. See also, Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. See Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[31] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

services or brokers and dealers, as described below. With respect to non-cleared CDS and OTC options, to the extent that agreement is reached with any counterparties on pricing methodologies for determining end-of-day settlement prices, the Adviser will use such information for purposes of determining the asset's value. Accordingly, the Funds plan to use this and other end of day pricing data provided by third parties, as described under Availability of Information below, for purposes of determining their respective NAVs. Total return swaps, bond or corporate credit index swaps and interest rate swaps will normally be valued on the basis of quotes obtained from brokers and dealers or third-party pricing services. The Adviser will use the latest NAV published by the investment company and major market data vendors as of 4:00 p.m. E.T. for the valuation of its investment company security investments, other than shares of exchange-listed investment company securities. Shares of exchange-listed investment company securities will be valued at market value, which will generally be determined using the last reported official closing or last trading price on the exchange or market on which the securities are primarily traded at the time of valuation. Repurchase agreements will be valued based on price quotations or other equivalent indications of value provided by a third-party pricing service. Other portfolio securities and assets for which market quotations are not readily available or determined to not represent the current fair value will be valued based on fair value as determined in good faith by the Adviser in accordance with procedures adopted by the Board of Trustees and with the 1940 Act.

Purchases and Redemptions of Creation Units

According to the Registration Statement, each Fund will offer and sell Creation Units through the Distributor on a continuous basis at the NAV next determined after an order in proper form is received by the Distributor. The NAV of each Fund will be determined as of the close of regular trading on the NYSE Arca (ordinarily 4:00 p.m. E.T.) on each business day. Each Fund will sell and redeem Creation Units only on a business day. A Creation Unit will consist of at least 50,000 Shares; however, the size of a Creation Unit may change in the future.

Shares will be purchased and redeemed in Creation Units. The Funds will generally sell and redeem Creation Units entirely for cash to the extent permissible under the Trust's Exemptive Application and Exemptive Order.

In the case of in-kind purchases and redemptions of Creation Units, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[32] On any given business day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or a redemption, as the ''Creation Basket.'' In addition, generally, the Creation Basket will correspond *pro rata* to the positions in a Fund's portfolio (including CDS and cash positions).

If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount''). In addition, in the event a Deposit Instrument included in a Creation Basket cannot be transferred or novated, the market value of that instrument will be paid and added to the Cash Amount.

As an actively managed fund, the allocation of a Fund's investments may change over time. Generally, it is not expected that a Fund's allocation of investments will change significantly over the course of a day in a manner that would significantly impact an intra-day hedging strategy. Authorized Participants and market makers have a wide variety of instruments that they could utilize to hedge their intraday market exposure, including corporate bonds, U.S. Treasuries, CDS, and exchange-traded funds, including other Funds in the Trust that have an investment objective that is inverse to that of a Fund whose Share value is being hedged.

[32] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act. In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of Rule 144A.

In connection with creations or redemptions for cash, it is expected each Fund will announce before the open of trading each business day that all purchases and all redemptions on that day will be made entirely in cash. On each business day, before the open of trading on the Exchange, each Fund will cause to be published through the National Securities Clearing Corporation (''NSCC'') the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following business day, and there will be no intra-day changes to the Creation Basket except to correct error(s) in the Creation Basket discovered after publication through the NSCC.

Placement of Orders To Purchase Creation Units

All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant,'' which is either (i) a ''Participating Party,'' *i.e.,* a broker or other participant in the Continuous Net Settlement System (''CNS System'') of the NSCC (''NSCC Process''), a clearing agency registered with the Commission and affiliated with The Depository Trust Company (''DTC'') or (ii) a DTC Participant, which, in either case, has executed a ''Participant Agreement'' with the Distributor with respect to the purchase and redemption of Creation Units.

All orders to purchase (and redeem) Creation Units must be received by the Distributor in proper form one hour prior to the NAV calculation time (''NAV Calculation Time''), which is generally at 4:00 p.m. E.T. (meaning that orders must be received by 3:00 p.m.) on the business day the order is placed in order for the purchaser to receive the NAV determined on that date (''Transmittal Date''). On business days that the Exchange closes early, a Fund may require an order for the purchase of Creation Units to be submitted earlier during the day.

Placement of Orders To Redeem Creation Units

Redemption requests must be placed by or through an Authorized Participant. All orders to redeem Creation Units of a Fund must be received by the Distributor in proper form no later than one hour prior to the NAV Calculation Time on the Transmittal Date in order for the redeeming investor to receive the

Fund's NAV determined on the Transmittal Date.

Portfolio Indicative Value

The Portfolio Indicative Value (''PIV'') as defined in NYSE Arca Equities Rule 8.600(c)(3) of Shares of each Fund will be widely disseminated by one or more major market data vendors at least every fifteen seconds during the Exchange's Core Trading Session.[33] An unaffiliated third-party retained by the Trust (the ''Calculation Agent'') will calculate the PIV throughout the trading day for each Fund by (i) calculating the marked-to-market gains/losses of CDS and all other financial instruments held by a Fund on the basis described below, (ii) calculating the value of a Fund's cash, cash equivalents, U.S. Treasury securities and other assets, (iii) adding the marked-to-market gains and losses on the financial instruments and the value of the other assets of the Fund to arrive at an asset value, and (iv) dividing that asset value by the total Shares outstanding to obtain a current PIV.

Gains and losses on CDS will be determined for purposes of calculating the PIV based on market quotations regularly received from third-party subscription services.[34] These quotations may include prices at which transactions were actually executed, ''executable quotations,'' which provide a firm price at which the dealer would buy or sell a specified notional amount of CDS, and ''indicative quotations,'' which, while not necessarily executable, provide an indication of the price at which such dealer would buy or sell a specified notional amount. The Funds will not be involved in, or responsible for, the calculation or dissemination of any such amount and will make no warranty as to its accuracy.

Availability of Information

The Funds' Web site (*http://www.etspreads.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Funds that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for each Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[35] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Funds will disclose on the Web site the Disclosed Portfolio as defined in proposed Rule 8.600(c)(2) that will form the basis for the Funds' calculation of NAV at the end of the business day.[36] The Web site information will be publicly available at no charge.

On a daily basis, the Adviser will disclose on behalf of each Fund each portfolio holding and financial instrument of a Fund the following information: Ticker symbol (if applicable), name of security and financial instrument, number of shares, if applicable, and dollar value of securities and financial instruments held in the portfolio, and percentage weighting of the holding and financial instrument in the portfolio. The Web site information will be publicly available at no charge. Market participants, particularly large institutional investors, regularly receive executable and indicative quotations on CDS from dealers. In addition, intra-day and end-of-day prices for all Single Name CDS, CDS index swaps, or other financial instruments held by a Fund will be available through major market data vendors or broker-dealers or on the exchanges on which they are traded. Major market vendors which provide intra-day and end-of-day prices for both Single Name CDS and CDS index swaps include Markit, CMA and Bloomberg. Bloomberg, Thomson Reuters Corporation (''Thomson Reuters'') and similar data vendors provide intra-day and end-of-day pricing data for U.S. Treasury securities and money market instruments. Exchanges which provide intraday and end-of-day prices for futures and options on futures include ICE Futures and CME Group. Broker-dealers provide intraday and end-of-day prices for non-cleared swaps and options, including options on Single Name CDS and options on CDS index swaps.

ICE Clear Credit LLC and CME Clearing provide daily price and transaction information for swaps that it or its affiliate clears by subscription to its members and other market participants. Additionally, pricing intraday regarding various CDS index swaps is provided free to the public, with a fifteen minute delay, on the Markit Web site (*https://source.markit.com*). Daily trading volume of cleared swaps transacted via the ICE Clear Credit LLC and CME Clearing clearing organizations is also available through their respective Web sites.

Another source of intra-day information about Single Name CDS prices is the market for OTC corporate bonds on which the CDS are based, and the Adviser requests that there is a significant amount of information available about the intra-day pricing of corporate bonds and the amount of such information is increasing. Because CDS represent the credit risk component of corporate bonds, and the effect of interest rate changes on the prices of corporate bonds is readily calculable, market professionals are able to obtain substantial information about the intra-day value of CDS based on data on the intra-day value of the underlying corporate bonds. While short-term variations between the bond and CDS markets do arise, and may occur more frequently when such markets are volatile, the value of the underlying debt securities is important and useful in valuing related CDS.

One source of bond price information is the Financial Industry Regulatory Authority's (''FINRA'') Trace Reporting and Compliance System (''TRACE''). TRACE reports executed prices on corporate bonds, including high-yield bond transactions. TRACE reported prices are available without charge on the FINRA Web site on a ''real time'' basis (subject to a fifteen minute delay) and also are available by subscription from various information providers (e.g., Bloomberg). In addition, authorized participants and other market participants, particularly those that regularly deal or trade in corporate bonds, have access to intra-day corporate bond prices from a variety of sources other than TRACE, such as Thomson Reuters, Interactive Data and MarketAxess.

The intraday, closing and settlement prices of U.S. Treasury securities,

[33] Currently, it is the Exchange's understanding that several major market data vendors widely disseminate PIVs taken from the Consolidated Tape Association (''CTA'') or other data feeds.

[34] Dealer quotations on a particular CDS will typically be provided notwithstanding a default by a Reference Entity under that swap. The price at which the CDS will be bought or sold will be affected by such a default.

[35] The Bid/Ask Price of Fund Shares will be determined using mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of a Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Funds and their service providers.

[36] Under accounting procedures followed by the Funds, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Funds will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

money market instruments and repurchase agreements will be readily available from published or other public sources, or major market data vendors such as Bloomberg and Thomson Reuters. Price information regarding exchange-traded options is available from the exchanges on which such instruments are traded and from Market Data Express's (an affiliate of Chicago Board Options Exchange) Customized Option Pricing Service. Price information regarding OTC options is available from major market data vendors. ICE Futures provides end-of-day prices for CDS futures or other similar futures contracts. Intra-day and closing price information for shares of exchange-listed investment company securities are available from the exchange on which such securities are principally traded and from major market data vendors. The NAV of any investment company security investment will be readily available on the Web site of the relevant investment company and from major market data vendors. Major market data vendors also provide intra-day and end-of-day prices for total return swaps, bond or corporate credit index swaps, and interest rate swaps.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *http://www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information may be published daily in the financial section of newspapers. Quotation and last sale information for the Shares and exchange-traded investment company securities will be available via the CTA high-speed line. In addition, the PIV, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors. The dissemination of the PIV, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of a Fund on a daily basis and to provide a close estimate of that value throughout the trading day.

Additional information regarding the Shares and the Funds, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes, is contained in the Registration Statement. All terms relating to the Funds that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement or the Exemptive Application.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund.[37] Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the holdings and/or the financial instruments comprising the Disclosed Portfolio of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of a Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Funds will be in compliance with Rule 10A–3 [38] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the FINRA's on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[39] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, futures, exchange-listed options and exchange-listed investment company securities with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, futures, exchange-listed options and exchange-listed investment company securities from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, futures, exchange-listed options and exchange-listed investment company securities from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[40] FINRA, on behalf of the Exchange, is able to access, as needed, trade

[37] *See* NYSE Arca Equities Rule 7.12.

[38] 17 CFR 240.10A–3.

[39] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[40] For a list of the current members of ISG, see *www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for the Funds may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

information for certain fixed income securities held by the Funds reported to FINRA's TRACE.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Funds are subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. E.T. each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [41] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. To meet its respective investment objective, under normal market conditions, each Fund intends to invest substantially all of its assets in (i) CDS cleared by a clearing organization which are either (a) CDS index swaps, including CDX Index swaps, based on multiple CDS relating to the debt issued by different Reference Entities, or (b) Single Name CDS; (ii) futures contracts based on CDS or other similar futures contracts, and (iii) U.S. Treasury securities, money market instruments, and cash. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, futures, exchange-listed options and exchange-listed investment company securities with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, futures, exchange-listed options and exchange-listed investment company securities from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, futures, exchange-listed options and exchange-listed investment company securities from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Adviser is affiliated with a broker-dealer and has represented that it has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the applicable portfolio. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Pricing and market information for CDS (including CDX Index swaps) is available by subscription and information on pricing is distributed on Bloomberg and other similar resources. ICE Clear Credit LLC provides daily price and transaction information by subscription to its members and other market participants. Additionally, pricing intraday regarding CDX Index swaps is provided free to the public, with a fifteen minute delay, on the Markit Web site. Market participants regularly receive executable and indicative quotations on CDS from dealers. Authorized participants and other market participants can also obtain CDS prices by subscription from third parties through on-line services. Another source of intra-day information about CDS prices is the market for OTC corporate bonds on which the CDS are based. Information regarding the previous day's closing price and trading volume information may be published daily in the financial section of newspapers. Quotation and last sale information for the Shares and exchange-traded investment company securities will be available via the CTA high-speed line. In addition, the PIV, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors. On each business day, each Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for a Fund's calculation of NAV at the end of the business day. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of a Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of actively-managed exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to

[41] 15 U.S.C. 78f(b)(5).

information regarding the Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of actively-managed exchange-traded products that are based on swaps indexes and that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days after publication (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 the 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–NYSEArca–2013–144 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–NYSEArca–2013–144. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2013–144 and should be submitted on or before February 5, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00605 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

[42] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71263; File No. SR–NYSEArca–2013–121]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change Relating to the Listing and Trading of Shares of AdvisorShares Sage Core Reserves ETF Under NYSE Arca Equities Rule 8.600

January 9, 2014.

I. Introduction

On November 5, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of AdvisorShares Sage Core Reserves ETF (''Fund'') of the AdvisorShares Trust (''Trust''). The proposed rule change was published for comment in the **Federal Register** on November 25, 2013.[3] The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of the Fund under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. The Shares will be offered by the Trust,[4] a Delaware statutory trust that is registered with the Commission as an open-end management investment company. The investment adviser to the Fund will be AdvisorShares Investments, LLC (''Adviser''). Sage Advisory Services Ltd. Co. (''Sub-Adviser'') will be the Fund's sub-adviser and will provide day-to-day portfolio management of the Fund. Foreside Fund Services, LLC will be the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon will serve as the administrator,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 70902 (Nov. 19, 2013), 78 FR 70370 (''Notice'').

[4] On August 13, 2013, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (''Securities Act''), and under the Investment Company Act of 1940 (''1940 Act'') relating to the Fund (File Nos. 333–157876 and 811–22110) (''Registration Statement''). In addition, the Exchange states that the Trust has obtained certain exemptive relief under the 1940 Act. *See* Investment Company Act Release No. 29291 (May 28, 2010) (File No. 812–13677).

custodian, transfer agent, and accounting agent for the Fund. The Exchange represents that neither the Adviser nor the Sub-Adviser is registered as a broker-dealer or is affiliated with a broker-dealer.[5]

The Exchange has made the following representations and statements in describing the Fund and its investment strategies, including other portfolio holdings and investment restrictions.[6]

Principal Investments

The Fund will seek to preserve capital while maximizing income. Under normal market conditions,[7] the Sub-Adviser will seek to achieve the Fund's investment objective by investing at least 80% of the Fund's net assets in a variety of fixed-income securities issued by U.S. and foreign issuers. These fixed-income securities will be U.S. dollar-denominated investment-grade debt securities rated Baa or higher by Moody's Investors Service, Inc. (''Moody's''), equivalently rated by Standard & Poor's Ratings Services (''S&P'') or Fitch, Inc. (''Fitch''), or, if unrated, determined by the Sub-Adviser to be of comparable quality. The Fund may retain a security if its rating falls below investment-grade and the Sub-Adviser determines that retention of the security is in the Fund's best interest.[8]

The Exchange represents that the Fund's investment portfolio of fixed-income securities will meet certain criteria for index-based, fixed-income exchange-traded funds (''ETFs'') contained in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02.[9]

The average duration of the Fund will vary based on the Sub-Adviser's forecast for interest rates and will normally not exceed one year.[10] The dollar-weighted average portfolio maturity of the Fund will normally not be expected to exceed three years.

The Fund may invest in debt securities, which are securities consisting of a certificate or other evidence of a debt (secured or unsecured) on which the issuing company or governmental body promises to pay the holder thereof a fixed, variable, or floating rate of interest for a specified length of time and to repay the debt on the specified maturity date. Some debt securities, such as zero-coupon bonds, do not make regular interest payments but are issued at a discount to their principal or maturity value. The debt securities that the Fund will invest in will include a variety of fixed-income obligations, including, but not limited to, corporate debt securities, government securities, municipal securities, convertible securities, and mortgage-backed securities.

The Fund may invest in variable- and floating-rate instruments, which involve certain obligations that may carry variable or floating rates of interest and may involve a conditional or unconditional demand feature. These instruments bear interest at rates that are not fixed, but that vary with changes in specified market rates or indices. The interest rates on these securities may be reset daily, weekly, quarterly, or according to some other reset period, and there may be a set floor or ceiling on interest rate changes. There is a risk that the current interest rate on these obligations may not accurately reflect existing market interest rates. A demand instrument with a demand notice exceeding seven days may be considered illiquid if there is no secondary market for the security.

The Fund may invest in bank obligations, including certificates of deposit, bankers' acceptances, and fixed time deposits. Certificates of deposit are negotiable certificates issued against funds deposited in a commercial bank for a definite period of time and earning a specified return. Bankers' acceptances are negotiable drafts or bills of exchange, normally drawn by an importer or exporter to pay for specific merchandise, that are ''accepted'' by a bank, meaning, in effect, that the bank unconditionally agrees to pay the face value of the instrument on maturity. The Exchange states that fixed time deposits are bank obligations payable at a stated maturity date and bearing interest at a fixed rate. Fixed time deposits may be withdrawn on demand by the investor, but may be subject to early withdrawal penalties that vary depending upon market conditions and the remaining maturity of the obligation.

The Fund may invest in commercial paper. The Exchange represents that commercial paper is a short-term obligation with a maturity ranging from one to 270 days issued by banks, corporations, and other borrowers and that these investments are unsecured and usually discounted. To the extent

[5] *See* Commentary .06 to NYSE Arca Equities Rule 8.600. The Exchange represents that, in the event that (a) the Adviser or the Sub-Adviser becomes a registered broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, the Advisor or Sub-Advisor will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition of or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolio.

[6] The Commission notes that additional information regarding the Trust, the Fund, and the Shares, including investment strategies, risks, net asset value (''NAV'') calculation, creation and redemption procedures, fees, portfolio holdings, disclosure policies, distributions, and taxes, among other information, is included in the Notice and the Registration Statement, as applicable. *See* Notice and Registration Statement, *supra* notes 3 and 4, respectively.

[7] The Exchange states that the term ''under normal market conditions'' means, without limitation, the absence of extreme volatility or trading halts in the fixed-income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[8] In determining whether a security is of ''comparable quality,'' the Exchange represents that the Sub-Adviser will consider, for example, whether the issuer of the security has issued other rated securities; whether the obligations under the security are guaranteed by another entity and, if so, the rating of the guarantor (if any); whether and (if applicable) how the security is collateralized; other forms of credit enhancement (if any); the security's maturity date, liquidity features (if any), relevant cash flow(s), and valuation features; other structural analysis; macroeconomic analysis; and sector or industry analysis.

[9] *See* NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 governing fixed-income-based Investment Company Units. The requirements of Rule 5.2(j)(3), Commentary .02(a) that will be met include the following: (i) The index or portfolio must consist of Fixed-income Securities (as defined in Rule 5.2(j)(3), Commentary.02) (Commentary .02(a)(1)); (ii) components that in the aggregate account for at least 75% of the weight of the index or portfolio each must have a minimum original principal amount outstanding of $100 million or more (Rule 5.2(j)(3), Commentary.02(a)(2)); (iii) a component may be a convertible security; however, once the convertible security converts to an underlying equity security, the component is removed from the index or portfolio (Rule 5.2(j)(3), Commentary.02(a)(3)); (iv) no component fixed-income security (excluding Treasury Securities) will represent more than 30% of the weight of the index or portfolio, and the five highest weighted component fixed-income securities do not in the aggregate account for more than 65% of the weight of the index or portfolio (Rule 5.2(j)(3), Commentary.02(a)(4)); and (v) an underlying index or portfolio (excluding exempted securities) must include securities from a minimum of 13 non-affiliated issuers (Rule 5.2(j)(3), Commentary.02(a)(5)).

The Commission notes that the Fund's investment portfolio of fixed-income securities would not be required to meet the quantitative criteria in NYSE Arca Equities Rule 5.2(j)(3) Commentary.02(a)(6), which requires that component securities that in aggregate account for at least 90% of the weight of the index or portfolio must be either (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Securities Exchange Act of 1934; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Securities Exchange Act of 1934; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

[10] According to the Exchange, duration is a measure used to determine the sensitivity of a security's price to changes in interest rates. The longer a security's duration, the more sensitive it will be to changes in interest rates.

the Fund invests in commercial paper, the Fund will invest in commercial paper rated A–1 or A–2 by S&P or Prime–1 or Prime–2 by Moody's.

The Fund may invest in U.S. government securities. Securities issued or guaranteed by the U.S. government or its agencies or instrumentalities include U.S. Treasury securities, which are backed by the full faith and credit of the U.S. Treasury and which differ only in their interest rates, maturities, and times of issuance. U.S. Treasury bills have initial maturities of one year or less; U.S. Treasury notes have initial maturities of one to ten years; and U.S. Treasury bonds generally have initial maturities of greater than ten years. The Exchange represents that certain U.S. government securities are issued or guaranteed by agencies or instrumentalities of the U.S. government including, but not limited to, obligations of U.S. government agencies or instrumentalities such as Fannie Mae, Freddie Mac, the Government National Mortgage Association (''Ginnie Mae''), the Small Business Administration, the Federal Farm Credit Administration, the Federal Home Loan Banks, Banks for Cooperatives (including the Central Bank for Cooperatives), the Federal Land Banks, the Federal Intermediate Credit Banks, the Tennessee Valley Authority, the Export-Import Bank of the United States, the Commodity Credit Corporation, the Federal Financing Bank, the National Credit Union Administration, and the Federal Agricultural Mortgage Corporation.

The Fund may invest in inflation-indexed bonds, which are fixed-income securities whose principal value is periodically adjusted according to the rate of inflation. According to the Exchange, two structures are common. The U.S. Treasury and some other issuers use a structure that accrues inflation into the principal value of the bond. Most other issuers pay out the Consumer Price Index accruals as part of a semi-annual coupon. Inflation-indexed securities issued by the U.S. Treasury have maturities of five, ten, or thirty years, although it is possible that securities with other maturities will be issued in the future. The U.S. Treasury securities pay interest on a semi-annual basis, equal to a fixed percentage of the inflation-adjusted principal amount.

The Fund may invest in mortgage-related securities and asset-backed securities (''ABSs'').[11] According to the Exchange, mortgage-related securities are interests in pools of residential or commercial mortgage loans, including mortgage loans made by savings and loan institutions, mortgage bankers, commercial banks, and others. Pools of mortgage loans are assembled as securities for sale to investors by various governmental, government-related, and private organizations. The Fund also may invest in debt securities that are secured with collateral consisting of mortgage-related securities. According to the Exchange, interests in pools of mortgage-related securities differ from other forms of debt instruments, which normally provide for periodic payment of interest in fixed amounts with principal payments at maturity or specified call dates. Instead, these securities provide a monthly payment that consists of both interest and principal payments. In effect, these payments are a ''pass-through'' of the monthly payments made by the individual borrowers on their residential or commercial mortgage loans, net of any fees paid to the issuer or guarantor of these securities. Additional payments are caused by repayments of principal resulting from the sale of the underlying property, refinancing or foreclosure, net of fees or costs that may be incurred. Some mortgage-related securities (such as securities issued by Ginnie Mae) are described as ''modified pass-through.'' These securities entitle the holder to receive all interest and principal payments owed on the mortgage pool, net of certain fees, at the scheduled payment dates regardless of whether or not the mortgagor actually makes the payment.

The Fund may invest in agency mortgage-related securities. According to the Exchange, the principal governmental guarantor of mortgage-related securities is Ginnie Mae. Ginnie Mae is a wholly owned United States government corporation within the Department of Housing and Urban Development. Ginnie Mae is authorized to guarantee, with the full faith and credit of the United States government, the timely payment of principal and interest on securities issued by institutions approved by Ginnie Mae (such as savings and loan institutions, commercial banks, and mortgage bankers) and backed by pools of mortgages insured by the Federal Housing Administration or guaranteed by the Department of Veterans Affairs.

The Fund may invest up to 10% of its net assets in privately issued (non-government-sponsored entity (''non-GSE'')) mortgage-related securities, including commercial mortgage-backed securities,[12] collateralized mortgage obligations (''CMOs''),[13] and adjustable rate mortgage-backed securities (''ARMBSs'').[14] According to the Exchange, commercial banks, savings and loan institutions, private mortgage insurance companies, mortgage bankers, and other secondary market issuers also create pass-through pools of conventional residential mortgage loans. These issuers may be the originators or servicers of the underlying mortgage loans as well as the guarantors of the mortgage-related securities. The Fund will not purchase mortgage-related securities (including non-GSE mortgage-related securities) or any other assets that in the Sub-Adviser's opinion are illiquid if, as a result, more than 15% of the Fund's net assets will be invested in illiquid securities.

The Sub-Adviser will seek to manage the portion of the Fund's assets committed to privately issued mortgage-related securities in a manner consistent with the Fund's investment objective, policies, and overall portfolio risk profile. In determining whether and how much to invest in privately issued mortgage-related securities, and how to allocate those assets, the Sub-Adviser will consider a number of factors. These include, but are not limited to: (1) The nature of the borrowers (*e.g.,* residential or commercial); (2) the collateral loan type (*e.g.,* for residential: First Lien—Jumbo/Prime, First Lien—Alt-A, First Lien—Subprime, First Lien—Pay-Option or Second Lien; for commercial: Conduit, Large Loan, or Single Asset/

[11] According to the Exchange, ABSs are bonds backed by pools of loans or other receivables. ABSs are created from many types of assets, including auto loans, credit card receivables, home equity loans, and student loans. ABSs are issued through special purpose vehicles that are bankruptcy remote from the issuer of the collateral. The credit quality of an ABS transaction depends on the performance of the underlying assets. To protect ABS investors from the possibility that some borrowers could miss payments or even default on their loans, ABSs include various forms of credit enhancement.

[12] The Exchange states that commercial mortgage-backed securities include securities that reflect an interest in, and are secured by, mortgage loans on commercial real property.

[13] The Exchange states that CMOs are debt obligations of a legal entity and that they are collateralized by mortgages and divided into classes. Similarly to a bond, interest and prepaid principal is paid, in most cases, on a monthly basis. CMOs may be collateralized by whole mortgage loans or private mortgage bonds, but are more typically collateralized by portfolios of mortgage pass-through securities guaranteed by Ginnie Mae, Freddie Mac, or Fannie Mae, and their income streams.

[14] The Exchange states that ARMBSs have interest rates that reset at periodic intervals. Acquiring ARMBSs permits the Fund to participate in increases in prevailing current interest rates through periodic adjustments in the coupons of mortgages underlying the pool on which ARMBSs are based. These ARMBSs generally have higher current yield and lower price fluctuations than is the case with more traditional fixed-income debt securities of comparable rating and maturity.

Single Borrower); and (3) in the case of residential loans, whether they are fixed-rate or adjustable-rate mortgages. Each of these criteria can cause privately issued mortgage-related securities to have differing primary economic characteristics and distinguishable risk factors and performance characteristics.

Other Fund Investments

In order to respond to adverse market, economic, political, or other conditions, the Fund may invest 100% of its total assets, without limitation, in investment-grade debt securities and money market instruments, either directly or through ETFs.[15] The Fund may be invested in this manner for extended periods, depending on the Sub-Adviser's assessment of market conditions. These debt securities and money market instruments include shares of other fixed-income mutual funds, commercial paper, certificates of deposit, bankers' acceptances, U.S. government securities, repurchase agreements, and bonds that are rated BBB or higher. While the Fund is in a defensive position, the opportunity to achieve its investment objective will be limited.

While the Fund, under normal market conditions, will invest at least 80% of its net assets in investment-grade fixed-income securities, as described above, the Fund may invest its remaining assets in the following.

The Fund may invest in non-investment-grade securities. According to the Exchange, non-investment-grade securities, also referred to as ''high-yield securities'' or ''junk bonds,'' are debt securities that are rated lower than the four highest rating categories by a nationally recognized statistical rating organization (for example, lower than Baa3 by Moody's or lower than BBB- by S&P) or are determined to be of comparable quality by the Fund's Sub-Adviser. These securities are generally considered to be, on balance, predominantly speculative with respect to capacity to pay interest and repay principal in accordance with the terms of the obligation and will generally involve more credit risk than securities in the investment-grade categories. According to the Exchange, investment in these securities generally provides greater income and increased opportunity for capital appreciation than investments in higher quality securities, but they also typically entail greater price volatility and principal and income risk.

The Fund may invest in equity securities, including common stocks, preferred stocks, warrants to acquire common stock, securities convertible into common stock, investments in master limited partnerships, and rights. With respect to its equity securities investments, the Fund will invest only in equity securities that trade in markets that are members of the Intermarket Surveillance Group (''ISG'') or are parties to a comprehensive surveillance sharing agreement with the Exchange.

The Fund may invest in exchange-traded notes (''ETNs''). According to the Exchange, ETNs (also called ''index-linked securities'' as would be listed, for example, under NYSE Arca Equities Rule 5.2(j)(6)), are senior, unsecured, and unsubordinated debt securities, issued by an underwriting bank, that are designed to provide returns that are linked to a particular benchmark, minus investor fees. ETNs have a maturity date and, generally, are backed only by the creditworthiness of the issuer.

The Fund may invest in CMO residuals, which the Exchange states are mortgage securities issued by agencies or instrumentalities of the U.S. government or by private originators of, or investors in, mortgage loans, including savings and loan associations, homebuilders, mortgage banks, commercial banks, investment banks, and special purpose entities of the foregoing. CMO residuals, whether or not registered under the Securities Act, may be subject to certain restrictions on transferability and may be deemed ''illiquid'' and subject to the Fund's limitations on investment in illiquid securities.

The Fund may invest in the securities of exchange-traded pooled vehicles that are not investment companies and, thus, not required to comply with the provisions of the 1940 Act.[16] As a result, as a shareholder of these pooled vehicles, the Fund will not have all of the investor protections afforded by the 1940 Act. These pooled vehicles may, however, be required to comply with the provisions of other federal securities laws, such as the Securities Act. These pooled vehicles typically hold currency or commodities, such as gold or oil, or other property that is itself not a security. If the Fund invests in and, thus, is a shareholder of a pooled vehicle, the Fund's shareholders will indirectly bear the Fund's proportionate share of the fees and expenses paid by the pooled vehicle, including any applicable management fees, in addition to both the management fees payable directly by the Fund to the Adviser and the other expenses that the Fund bears directly in connection with its own operations.

The Fund may invest in equities issuers located outside the United States directly[17] or through financial instruments, ETFs, ETNs, and exchange-traded pooled vehicles that are indirectly linked to the performance of foreign issuers.

The Fund may invest directly and indirectly in foreign currencies. The Fund may conduct foreign currency transactions on a spot (*i.e.,* cash) or forward basis (*i.e.,* by entering into forward contracts to purchase or sell foreign currencies). At the discretion of the Adviser, the Fund may, but is not obligated to, enter into forward currency exchange contracts for hedging purposes to help reduce the risks and volatility caused by changes in foreign currency exchange rates. When used for hedging purposes, forward currency contracts tend to limit any potential gain that may be realized if the value of the Fund's

[15] The ETFs in which the Fund may invest will be registered under the 1940 Act and include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). These ETFs all will be listed and traded in the U.S. on registered exchanges. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (*e.g.,* 2X, –2X, 3X, or –3X) ETFs.

[16] These securities include Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); and Trust Units (as described in NYSE Arca Equities Rule 8.500).

[17] Securities of equities issuers may be any one of the following: American Depositary Receipts (''ADRs''), Global Depositary Receipts (''GDRs''), European Depositary Receipts (''EDRs''), International Depository Receipts (''IDRs''), ''ordinary shares,'' and ''New York shares'' issued and traded in the U.S. (collectively, ''Equity Financial Instruments''). The Exchange states that ADRs are U.S.-dollar-denominated receipts typically issued by U.S. banks and trust companies that evidence ownership of underlying securities issued by a foreign issuer. Generally, ADRs in registered form are designed for use in domestic securities markets and are traded on exchanges or over-the-counter in the U.S. GDRs, EDRs, and IDRs are similar to ADRs in that they are certificates evidencing ownership of shares of a foreign issuer; however, GDRs, EDRs, and IDRs may be issued in bearer form and denominated in other currencies, and they are generally designed for use in specific or multiple securities markets outside the U.S. EDRs, for example, are designed for use in European securities markets while GDRs are designed for use throughout the world. Ordinary shares are shares of foreign issuers that are traded abroad and on a U.S. exchange. New York shares are shares that a foreign issuer has allocated for trading in the U.S. ADRs may be sponsored or unsponsored, but unsponsored ADRs will not exceed 10% of the Fund's net assets. With respect to its investments in equity securities (including Equity Financial Instruments), the Fund will invest at least 90% of its assets invested in securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

foreign holdings increases because of currency fluctuations.

The Fund may invest in other mortgage-related securities, which include securities other than those described above that directly or indirectly represent a participation in, or are secured by and payable from, mortgage loans on real property, including mortgage dollar rolls (that is, a series of purchase and sale contracts),[18] or stripped mortgage-backed securities (''SMBS''), which are derivative multi-class mortgage securities.[19] The other mortgage-related securities may be debt securities issued by agencies or instrumentalities of the U.S. government or by private originators of, or investors in, mortgage loans, including savings and loan associations, homebuilders, mortgage banks, commercial banks, investment banks, partnerships, trusts, and special purpose entities of the foregoing.

The Fund may invest in closed-end funds. Closed-end funds are pooled investment vehicles that are registered under the 1940 Act and whose shares are listed and traded on U.S. national securities exchanges.

The Fund may invest in U.S. exchange-traded futures contracts, including stock index futures and U.S. Treasury futures, and options on these futures contracts. The Fund also may invest in U.S. exchange- and over-the-counter-traded options, which will generally be based on U.S. Treasuries.

The Fund may enter into swap agreements generally based on fixed-income securities, including, but not limited to, total return swaps, index swaps, and interest rate swaps. The Fund may utilize swap agreements in an attempt to gain exposure to the securities in a market without actually purchasing those securities, or to hedge a position. The Fund will utilize cleared swaps, if available, to the extent practicable and will not enter into any swap agreement unless the Adviser believes that the other party to the transaction is creditworthy. Swaps utilized by the Fund will be backed by collateral of the Fund's assets, as required. The Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Sub-Adviser's credit analysts will evaluate each approved counterparty using various methods of analysis, including company visits, earnings updates, the broker-dealer's reputation, past experience with the broker-dealer, market levels for the counterparty's debt and equity, the counterparty's liquidity, and the broker-dealer's share of market participation.

The Fund may invest in collateralized bond obligations (''CBOs''), collateralized loan obligations (''CLOs''), other collateralized debt obligations (''CDOs''), and other similarly structured securities. CBOs, CLOs, and other CDOs are types of ABSs. According to the Exchange, a CBO is a trust that is often backed by a diversified pool of high-risk, below-investment-grade, fixed-income securities. The collateral can be from many different types of fixed-income securities such as high-yield debt, residential privately issued mortgage-related securities, commercial privately issued mortgage-related securities, trust preferred securities, and emerging market debt. A CLO is a trust typically collateralized by a pool of loans, which may include, among others, domestic and foreign senior secured loans, senior unsecured loans, and subordinated corporate loans, including loans that may be rated below-investment-grade or equivalent unrated loans. Other CDOs are trusts backed by other types of assets representing obligations of various parties.[20]

The Fund may invest in hybrid instruments. The Exchange represents that a hybrid instrument is a type of potentially high-risk derivative that combines a traditional stock, bond, or commodity with an option or forward contract. Generally, the principal amount, amount payable upon maturity or redemption, or interest rate of a hybrid is tied (positively or negatively) to the price of some security, commodity, currency, or securities index; another interest rate; or some other economic factor (each a ''benchmark''). The interest rate or (unlike most fixed-income securities) the principal amount payable at maturity of a hybrid security may be increased or decreased, depending on changes in the value of the benchmark. An example of a hybrid instrument could be a bond issued by an oil company that pays a small base level of interest with additional interest that accrues in correlation with the extent to which oil prices exceed a certain predetermined level. Such a hybrid instrument would be a combination of a bond and a call option on oil.

The Fund may invest in structured notes, which the Exchange states are debt obligations that also contain an embedded derivative component with characteristics that adjust the obligation's risk/return profile. Generally, the performance of a structured note will track that of the underlying debt obligation and the derivative embedded within it.[21] The Fund would have the right to receive periodic interest payments from the issuer of the structured notes at an agreed-upon interest rate and a return of the principal at the maturity date.

The Fund may invest in shares of exchange-traded real estate investment trusts (''REITs''). According to the Exchange, REITs are pooled investment vehicles that invest primarily in real estate or real estate-related loans. REITs are generally classified as equity REITs, mortgage REITs, or a combination of equity and mortgage REITs.

The Fund may enter into repurchase agreements with financial institutions, which may be deemed to be loans. The Fund follows certain procedures designed to minimize the risks inherent in these agreements. These procedures include effecting repurchase transactions only with large, well-capitalized, and well-established financial institutions whose condition will be continually monitored by the Sub-Adviser. In addition, the value of

[18] According to the Exchange, a mortgage dollar roll involves the sale of mortgage-backed securities by the Fund and its agreement to repurchase the instrument (or one which is substantially similar) at a specified time and price.

[19] According to the Exchange, SMBSs are usually structured with two classes that receive different proportions of the interest and principal distributions on a pool of mortgage assets. A common type of SMBS will have one class receiving some of the interest and most of the principal from the mortgage assets, while the other class will receive most of the interest and the remainder of the principal. In the most extreme case, one class will receive all of the interest (the interest-only or ''IO'' class), while the other class will receive all of the principal (the principal-only or ''PO'' class). The yield to maturity on an IO class is extremely sensitive to the rate of principal payments (including pre-payments) on the related underlying mortgage assets, and a rapid rate of principal payments may have a material adverse effect on the Fund's yield to maturity from these securities. If the underlying mortgage assets experience greater than anticipated pre-payments of principal, the Fund may fail to recoup some or all of its initial investment in these securities even if the security is in one of the highest rating categories.

[20] According to the Exchange, the risks of an investment in a CBO, CLO, or other CDO depend largely on the type of the collateral securities and the class of the instrument in which the Fund invests. Normally, CBOs, CLOs, and other CDOs are privately offered and sold, and thus are not registered under the securities laws. As a result, investments in CBOs, CLOs, and other CDOs may be characterized by the Fund as illiquid securities; however, an active dealer market may exist for CBOs, CLOs, and other CDOs allowing them to qualify for Rule 144A transactions.

[21] According to the Exchange, structured notes are typically privately negotiated transactions between two or more parties. The Fund bears the risk that the issuer of the structured note will default or become bankrupt, which may result in the loss of principal investment and periodic interest payments expected to be received for the duration of its investment in the structured notes.

the collateral underlying the repurchase agreement will always be at least equal to the repurchase price, including any accrued interest earned on the repurchase agreement. It is the current policy of the Fund not to invest in repurchase agreements that do not mature within seven days if the investment, together with any other illiquid assets held by the Fund, amounts to more than 15% of the Fund's net assets.

The Fund may enter into reverse repurchase agreements as part of the Fund's investment strategy. According to the Exchange, reverse repurchase agreements involve sales by the Fund of portfolio assets concurrently with an agreement by the Fund to repurchase the same assets at a later date at a fixed price. Generally, the effect of this transaction is that the Fund can recover all or most of the cash invested in the portfolio securities involved during the term of the reverse repurchase agreement, while the Fund will be able to keep the interest income associated with those portfolio securities.

The Fund may engage in short sales transactions in which the Fund sells a security it does not own.

The Fund may invest in mortgage-related securities that are equity securities issued by agencies or instrumentalities of the U.S. government or by private originators of, or investors in, mortgage loans, including savings and loan associations, homebuilders, mortgage banks, commercial banks, investment banks, partnerships, trusts, and special purpose entities of the foregoing.[22]

The Fund, from time to time, in the ordinary course of business, may purchase securities on a when-issued, delayed-delivery, or forward commitment basis (*i.e.,* delivery and payment can take place between a month and 120 days after the date of the transaction).

The Fund may invest in U.S. Treasury zero-coupon bonds. The Exchange states that these securities are U.S. Treasury bonds which have been stripped of their unmatured interest coupons, the coupons themselves, and receipts or certificates representing interests in these stripped debt obligations and coupons. Interest is not paid in cash during the term of these securities, but is accrued and paid at maturity.

Investment Restrictions

According to the Registration Statement, the Fund may not:

(i) With respect to 75% of its total assets, purchase securities of any issuer (except securities issued or guaranteed by the U.S. government, its agencies or instrumentalities or shares of investment companies) if, as a result, more than 5% of its total assets would be invested in the securities of an issuer; or (ii) acquire more than 10% of the outstanding voting securities of any one issuer. For purposes of this policy, the issuer of the underlying security will be deemed to be the issuer of any respective depositary receipt.

(ii) Invest 25% or more of its total assets in the securities of one or more issuers conducting their principal business activities in the same industry or group of industries. This limitation does not apply to investments in securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, or shares of investment companies. The Fund will not invest 25% or more of its total assets in any investment company that so concentrates.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser[23] in accordance with Commission guidance, CMO residuals, and demand instruments with a demand notice exceeding seven days. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities. Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may invest in the securities of other investment companies to the extent that this investment would be consistent with the requirements of Section 12(d)(1) of the 1940 Act or any rule, regulation, or order of the Commission or interpretation thereof. The Trust has entered into agreements with several unaffiliated ETFs that permit, pursuant to a Commission order, the Fund to purchase shares of those ETFs beyond the Section 12(d)(1) limits described above. The Fund will only make these investments in conformity with the requirements of Subchapter M of the Internal Revenue Code of 1986. The Fund will seek to qualify for treatment as a Regulated Investment Company (''RIC'') under the Internal Revenue Code.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act[24] and the rules and regulations thereunder applicable to a national securities exchange.[25] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[26] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the initial and continued listing criteria in NYSE Arca Equities Rule 8.600 for the Shares to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[27] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares and U.S. exchange-listed equity securities, including ETFs, ETNs, exchange-traded pooled vehicles, ADRs,

[22] The Exchange states that, with respect to its mortgage-related securities holdings that are equity securities, the Fund will invest only in securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

[23] In reaching liquidity decisions, the Adviser or Sub-Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

[24] 15 U.S.C. 78f.

[25] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[26] 17 U.S.C. 78f(b)(5).

[27] 15 U.S.C. 78k–1(a)(1)(C)(iii).

equity-related financial instruments and other exchange-traded products, REITs, and mortgage-related securities, will be available via the Consolidated Tape Association (''CTA'') high-speed line and will be available from the national securities exchange on which they are listed. Information regarding unsponsored ADRs will be available from major market data vendors. Intra-day and closing price information relating to the fixed income and equities investments of the Fund, as well as Fund investments in spot currencies and derivatives, including futures, forwards, options, options on futures, and swaps, will be available from major market data vendors and from securities and futures exchanges, as applicable. Information relating to U.S. exchange-listed options will be available via the Options Price Reporting Authority. In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.[28] On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day.[29] In addition, a basket composition file, which includes the security names and share quantities (as applicable) required to be delivered in exchange for Fund Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the New York Stock Exchange, LLC (''NYSE'') via the National Securities Clearing Corporation. The basket will represent one creation unit of the Fund. The Administrator will calculate NAV and NAV per Share once each business day as of the regularly scheduled close of normal trading on the NYSE (normally, 4:00 p.m., Eastern Time).[30] Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable,[31] and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth additional circumstances under which Shares of the Fund may be halted. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Consistent with NYSE Arca Equities Rule 8.600(d)(2)(B)(ii), the Reporting Authority must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the Funds' portfolios. In addition, the Exchange states that neither the Adviser nor Sub-Adviser is registered as a broker-dealer or is affiliated with a broker-dealer.[32] The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and

[28] According to the Exchange, several major market data vendors display or make widely available Portfolio Indicative Values taken from CTA or other data feeds.

[29] On a daily basis, the Fund's Web site will disclose for each portfolio security and other financial instrument of the Fund the following information: Ticker symbol (if applicable); name and, when available, the individual identifier (CUSIP) of the security and financial instrument; number of shares (if applicable) and dollar value of securities and financial instruments held in the portfolio; and percentage weighting of the security and financial instrument in the portfolio. The Web site information will be publicly available at no charge.

[30] According to the Exchange, price information on listed securities, including ETFs, ETNs, exchange-traded pooled vehicles, ADRs, equity-related financial instruments and other exchange-traded products, REITs, and mortgage-related securities, will be taken from the exchange where the security is primarily traded. Other portfolio securities and assets for which market quotations are not readily available or determined to not represent the current fair value will be valued based on fair value as determined in good faith in accordance with procedures adopted by the Trust's Board of Trustees and in accordance with the 1940 Act. For assets such as options, futures, and swaps, in general, Bloomberg will be the primary source for pricing, and Reuters will be the secondary source. Spot currency transactions and non-exchange-traded derivatives, including forwards, swaps, and certain options will normally be valued on the basis of quotes obtained from brokers and dealers or pricing services using data reflecting the earlier closing of the principal markets for those assets. The Exchange states that prices obtained from independent pricing services use information provided by market makers or estimates of market values obtained from yield data relating to investments or securities with similar characteristics. Exchange-traded options will be valued at market closing prices. Futures and options on futures will be valued at the settlement price determined by the applicable exchange. Unsponsored ADRs will be valued on the basis of the market closing price on the exchange where the stock of the foreign issuer that underlies the ADR is listed. Domestic and foreign fixed-income securities generally trade in the over-the-counter market rather than on a securities exchange. The Fund will generally value these portfolio securities by relying on independent pricing services. The Fund's pricing services will use valuation models or matrix pricing to determine current value. The Exchange states that, in general, pricing services use information with respect to comparable bond and note transactions, quotations from bond dealers, or by reference to other securities that are considered comparable in these characteristics as rating, interest rate, maturity date, option-adjusted spread models, prepayment projections, interest rate spreads, and yield curves. A matrix price is an estimated price or value for a fixed-income security. Matrix pricing is considered a form of fair-value pricing.

[31] These reasons may include: (1) The extent to which trading is not occurring in the securities or the financial instruments composing the Disclosed Portfolio of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt of suspend trading in the Shares of the Fund.

[32] *See supra* note 5 and accompanying text. The Exchange states that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser, the Sub-Adviser, and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless the investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

applicable federal securities laws.[33] The Exchange further represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Moreover, prior to the commencement of trading, the Exchange states that it will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including the following:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, underlying exchange-traded equity securities (including, without limitation, ETFs, ETNs, exchange-traded pooled vehicles, ADRs, equity-related financial instruments and other exchange-traded products, REITs, and mortgage-related securities), futures, options on futures, and exchange-traded options with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, underlying exchange-traded equity securities, futures, options on futures, and exchange-traded options from these markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, underlying exchange-traded equity securities (including, without limitation, ETFs, ETNs, exchange-traded pooled vehicles, ADRs, equity-related financial instruments and other exchange-traded products, REITs, and mortgage-related securities), futures, options on futures, and exchange-traded options from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed-income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

(4) At least 90% of the Fund's investments in equity securities (including Equity Financial Instruments) will be in securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. With respect to its mortgage-related securities holdings that are equity securities, the Fund will invest only in securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(5) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in creation unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value is disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

(6) For initial and continued listing, the Funds must be in compliance with Rule 10A–3 under the Act,[34] as provided by NYSE Arca Equities Rule 5.3.

(7) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser in accordance with Commission guidance, CMO residuals, and demand instruments with a demand notice exceeding seven days.

(8) The Fund will utilize cleared swaps, if available, to the extent practicable and will not enter into any swap agreement unless the Adviser believes that the other party to the transaction is creditworthy. Swaps utilized by the Fund will be backed by collateral of the Fund's assets, as required. The Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis.

(9) The Fund will effect repurchase transactions only with large, well-capitalized and well-established financial institutions whose condition will be continually monitored by the Sub-Adviser. In addition, the value of the collateral underlying the repurchase agreement will always be at least equal to the repurchase price, including any accrued interest earned on the repurchase agreement.

(10) The Fund may invest up to 10% of its net assets in privately issued non-GSE mortgage-related securities (including commercial mortgage-backed securities, CMOs, and ARMBS).

(11) The Fund's fixed-income investment portfolio will meet certain listing criteria for index-based, fixed-income exchange-traded funds contained in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02.[35]

(12) The Fund's investments will be consistent with that Fund's investment objective and will not be used to enhance leverage. In addition, the Fund will not invest in leveraged or inverse leveraged (*e.g.,* 2X, –2X, 3X, or –3X) ETFs.

(13) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Funds.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[36] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (SR–NYSEArca–2013–121), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00575 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

[33] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement and that the Exchange is responsible for FINRA's performance under this regulatory services agreement.

[34] *See* 17 CFR 240.10A–3.

[35] *See supra* note 9 and accompanying text.

[36] 15 U.S.C. 78f(b)(5).

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71262; File No. SR–FINRA–2013–050]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to Over-the-Counter Equity Trade Reporting and OATS Reporting

January 9, 2014.

On November 12, 2013, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the FINRA rules governing the reporting of (i) over-the-counter (''OTC'') transactions in equity securities to the FINRA Facilities; [3] and (ii) orders in NMS stocks and OTC Equity Securities to the Order Audit Trail System (''OATS''). The Proposal was published for comment in the **Federal Register** on November 29, 2013.[4] The Commission received one comment letter on the proposal.[5]

Section 19(b)(2) of the Act [6] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether these proposed rule changes should be disapproved. The 45th day for this filing is January 13, 2014.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider and take action on the Exchange's proposed rule change.

Accordingly, pursuant to Section 19(b)(2)(A)(ii)(I) of the Act [7] and for the reasons stated above, the Commission designates February 27, 2014, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–FINRA–2013–050).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00574 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Specifically, the FINRA Facilities are the Alternative Display Facility (''ADF'') and the Trade Reporting Facilities (''TRF''), to which members report OTC transactions in NMS stocks, as defined in SEC Rule 600(b) of Regulation NMS; and the OTC Reporting Facility (''ORF''), to which members report transactions in ''OTC Equity Securities,'' as defined in FINRA Rule 6420 (i.e., non-NMS stocks such as OTC Bulletin Board and OTC Market securities), as well as transactions in Restricted Equity Securities, as defined in FINRA Rule 6420, effected pursuant to Securities Act Rule 144A.

[4] *See* Securities Exchange Act Release No. 70924 (November 22, 2013), 78 FR 71695 (''Notice'').

[5] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from Manisha Kimmel, Executive Director, Financial Information Forum, dated December 20, 2013 (''FIF Letter'').

[6] 15 U.S.C. 78s(b)(2).

[7] 15 U.S.C. 78s(b)(2)(A)(ii)(I).

[8] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71275; File No. SR–NYSEMKT–2014–04]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Amex Options Fee Schedule for Firms To Increase the Transaction Fee for Certain Proprietary Electronic Executions of Standard Option Contracts That Fall Within the First of the Volume-Based Tiers for Certain Proprietary Electronic Executions of Standard Option Contracts

January 9, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 8, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options Fee Schedule (''Fee Schedule'') for Firms to increase the transaction fee for certain proprietary electronic executions of standard option contracts that fall within the first of the volume-based tiers for certain proprietary electronic executions of standard option contracts. Firms that achieve subsequent volume tiers will be charged a lower per contract rate for all of their proprietary electronic executions of standard option contracts that month. The proposed change will be operative on January 8, 2014.[4] The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for Firms to increase the transaction fee for certain proprietary electronic executions of standard option contracts that fall within the first of the volume-based tiers for certain proprietary electronic executions of standard option contracts. Firms that achieve subsequent volume tiers will be charged a lower per contract rate for all of their proprietary electronic executions of standard option contracts

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The proposed filing replaces SR–NYSEMKT–2013–108, which proposed the same fee changes effective January 2, 2014 (the ''January 2nd Fee Changes''), and which the Exchange shall withdraw. Upon the withdrawal of SR–NYSEMKT–2013–108, the January 2nd Fee Changes will be rendered ineffective, absent the present filing, which renews the Exchange's proposal to amend its fee schedule.

that month. The proposed change will be operative on January 8, 2014.

Specifically, the Exchange proposes to increase the per contract transaction fee for proprietary electronically executed orders for Firms from $.25 to $.32 per contract, for volumes that fall under the first of the three volume tiers, for volumes less than .21% of Total Industry Customer equity and exchange-traded fund (''ETF'') option average daily volume (''ADV''). The Exchange notes that the proposed fee is within the range of Firm fees presently assessed in the industry, which range from $.20 per contract for high volume (over 350,000 contracts per month) Firms in Multiply Listed Symbols on NASDAQ OMX PHLX (''PHLX'') [5] to $.89 per contract to take liquidity on The NASDAQ Options Market (''NOM'') for non-Penny Pilot securities.[6]

At present and after the proposed change, upon achieving a higher volume tier, a Firm will automatically become eligible for a lower per contract rate on all of its electronic executions in that month. The existing volume-based tiers are based on a percentage of the Total Industry Customer equity and ETF option ADV.[7] The existing tiers are as follows and the only change will be the rate per contract associated with the first tier for volumes less than .21% of Total Industry Customer equity and ETF option ADV will have a rate of $.32 per contract instead of $.25 per contract which is indicated below with [brackets for deletions] and *italics for additions:*

Tiers for firm proprietary electronic transactions	Rate per contract (retroactive to the first contract traded during the month)
Less than .21% of Total Industry Customer equity and ETF option ADV	[$.25] *$.32*
.21% to .32% of Total Industry Customer equity and ETF option ADV	.20
Greater than .32% of Total Industry Customer equity and ETF option ADV	.17

In calculating the amount of Firm electronic volume that is counted in the volume tier necessary to achieve the lower per contract rate, the Exchange will continue to exclude qualified contingent cross (''QCC'') volume because QCC volumes are already eligible for a separate rebate.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) [8] of the Act, in general, and Section 6(b)(4) and (5) [9] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed fees are reasonable because they are within the range of similar fees on other exchanges.[10] They also are reasonable because they are designed to attract higher volumes of Firm proprietary electronic equity and ETF volume to the Exchange, which will benefit all participants by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange. Encouraging Firms to send higher volumes of orders to the Exchange will contribute to the Exchange's depth of book as well as to the top of book liquidity. As noted by the Exchange when it adopted volume-based tiers for certain proprietary electronic executions, the proposed fee increase for lower volume Firms is reasonable and equitable because it will reasonably ensure that the Exchange will derive sufficient revenue to continue to fund the fee reductions at the higher volumes for the benefit of all participants.[11] Moreover, the Exchange believes that the proposed volume-based fees are equitable and not unfairly discriminatory because they will apply to all Firms that execute proprietary electronic equity and ETF orders on the Exchange at each tier on an equal and non-discriminatory basis. The sole basis for fee differentiation among the tiers will be participant volume on the Exchange.

The Exchange believes that excluding the volumes attributable to QCC executions is reasonable, equitable, and not unfairly discriminatory. QCC volumes are already counted toward a separate rebate that the Exchange pays to Floor Brokers who transact QCC trades.[12] If the Exchange were to count QCC volumes toward Firm electronic volumes for discounted rates, the Exchange would have to raise fees for all other participants. The Exchange does not believe such a result would be reasonable or equitable. Because all Firms will be treated equally with respect to QCC volume, the proposal to exclude this volume from the tiers is not inequitable or unfairly discriminatory.

The Exchange further notes that non-Firm market participants pay substantially more for the ability to trade on the Exchange, and as such, the proposed amount of the increase for Firms that contribute relatively lower levels of volume is reasonable. For example, Market Makers have much higher fixed monthly costs as compared to Firms. A Market Maker seeking to stream quotes in the entire universe of names traded on the Exchange must pay $26,000 per month in Amex Trading Permit (''ATP'') fees. In addition, a Market Maker acting as a Specialist, e-Specialist, or Directed Order Market Maker incurs monthly Rights Fees that range from $75 per option to $1,500 per option along with Premium Product Fees that can be as high as $7,000 per month. Firms pay only $1,000 per month in ATP fees and for that low monthly cost are able to send orders in all issues traded on the Exchange. Other participants have a much higher per contract cost to trade on the Exchange, such as Non-NYSE Amex Options Market Makers, who pay $.43 per contract to transact on the Exchange electronically.

Firms also are free to change the manner in which they access the Exchange. Firms may apply to become Market Makers to transact on a proprietary basis as Market Makers. In light of the ability to access the Exchange in a variety of ways, each of which is priced differently, Firms and other participants may access the

[5] *See* PHLX Fee Schedule, *available at http://www.nasdaqtrader.com/Micro.aspx?id=PHLXPricing*

[6] *See* NOM Fee Schedule, *available at http://www.nasdaqtrader.com/Micro.aspx?id=OptionsPricing*

[7] Total Industry Customer equity and ETF option ADV will be that which is reported for the month by The Options Clearing Corporation (''OCC'') in the month in which the discounted rate may apply. For example, January 2014 Total Industry Customer equity and ETF option ADV will be used in determining what, if any, discount a Firm may be eligible for on its electronic Firm transactions based on the amount of electronic Firm volume it executes in January 2014 relative to Total Industry Customer equity and ETF option ADV. Total Industry Customer equity and ETF option ADV comprises those equity and ETF contracts that clear in the customer account type at OCC and does not include contracts that clear in either the firm or market maker account type at OCC or contracts overlying a security other than an equity or ETF security.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] *See supra* nn.5–6.

[11] *See* Securities Exchange Act Release No. 34–69488 (May 1, 2013), 78 FR 88 [sic] (May 7, 2013) (SR–NYSEMKT–2013–38).

[12] *See* Securities Exchange Act Release No. 65472 (Oct. 3, 2011), 76 FR 62887 (Oct. 11, 2011) (SR–NYSEAmex–2011–72).

Exchange in a manner that makes the most economic sense for them.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change will encourage Firms to send higher volumes of order flow to the Exchange to qualify for the lower transaction fees. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [13] of the Act and subparagraph (f)(2) of Rule 19b–4 [14] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2014–04 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–NYSEMKT–2014–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room at 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2014–04, and should be submitted on or before February 5, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00583 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71269; File No. SR–NYSEArca–2013–135]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of db–X Ultra-Short Duration Fund and db–X Managed Municipal Bond Fund Under NYSE Arca Equities Rule 8.600

January 9, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 27, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to proposes to [sic] list and trade shares of the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): db–X Ultra-Short Duration Fund and db–X Managed Municipal Bond Fund. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares [4] on the Exchange [5]: db–X Ultra-Short Duration Fund and db–X Managed Municipal Bond Fund (each a ''Fund'' and, collectively, the ''Funds''). The Funds will be actively-managed exchange-traded funds (''ETFs''). Each Fund is a series of the DBX ETF Trust (''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[6] The Funds will be managed by DBX Advisors LLC (the ''Adviser''). Deutsche Investment Management Americas Inc. will be the investment sub-adviser for the Funds (the ''Sub-Adviser''). ALPS Distributors, Inc. will be the Funds' distributor (''Distributor''). The Bank of New York Mellon will be the administrator, custodian and fund accounting and transfer agent for each Fund.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. The Adviser and Sub-Adviser are not broker-dealers, but both the Adviser and Sub-Adviser are affiliated with a broker-dealer, and each has implemented and will maintain a fire wall with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the respective Fund's portfolio. In the event (a) the Adviser or Sub-Adviser becomes a registered broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

db–X Ultra-Short Duration Fund—Principal Investments

According to the Registration Statement, the investment objective of the db-X Ultra-Short Duration Fund will be to seek to provide current income consistent with total return.

Under normal market conditions,[8] the Fund will seek to achieve its investment objective by investing at least 65% of its net assets in debt securities, as described below. According to the Registration Statement, debt securities will include (1) debt securities of U.S. and foreign government agencies and instrumentalities, and U.S. Government obligations (including U.S. agency mortgage pass-through securities, as described below); (2) U.S. and foreign corporate debt securities, mortgage-backed and asset backed securities, adjustable rate loans that have a senior right to payment (''senior loans''), money market instruments, and fixed and other floating-rate debt securities; and (3) taxable municipal and tax-exempt municipal bonds.[9] Under normal market conditions, the Fund currently does not intend to hold more than 10% of its total assets in non-U.S. dollar denominated debt securities.

The Fund may invest in investment-grade (rated BBB- or higher by Standard & Poor's Ratings Services, Inc. (''S&P'') and Fitch, Inc. (''Fitch'') or Baa3 or higher by Moody's Investors Service, Inc. (''Moody's'') or, if unrated, determined by the Fund's Adviser and/or Sub-Adviser to be of comparable quality [10]) and non-investment grade

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission has previously approved listing and trading on the Exchange of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR–NYSEArca–2011–95) (order approving listing and trading of PIMCO Total Return Exchange Traded Fund); 66670 (March 28, 2012), 77 FR 20087 (April 3, 2012) (SR–NYSEArca–2012–09) (order approving listing and trading of PIMCO Global Advantage Inflation-Linked Bond Strategy Fund).

[6] The Trust is registered under the 1940 Act. On December 19, 2012, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act'') and the 1940 Act relating to the Fund [sic] (File Nos. 333–170122 and 811–22487) (the ''Registration Statement''). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statement. As of the date of this filing, the Trust has also filed an Amended and Restated Application for an Order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–14004), dated October 29, 2013 (''Exemptive Application''). *See* Investment Company Act Release No. 30770 (October 29, 2013), 78 FR 66086 (November 4, 2013). The Shares will not be listed on the Exchange until an order (''Exemptive Order'') under the 1940 Act has been issued by the Commission with respect to the Exemptive Application. Investments made by the Funds will comply with the conditions set forth in the Exemptive Order.

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser, Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[8] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[9] The Fund normally will target an average portfolio duration (a measure of sensitivity to interest rate changes) of no longer than one year.

[10] In determining whether a security is of ''comparable quality,'' the Adviser or Sub-Adviser will consider, for example, whether the issuer of the security has issued other rated securities; whether the obligations under the security are guaranteed by another entity and the rating of such guarantor (if any); whether and (if applicable) how the security is collateralized; other forms of credit enhancement (if any); the security's maturity date; liquidity features (if any); relevant cash flow(s); valuation features; other structural analysis; macroeconomic analysis; and sector or industry analysis.

(rated BB+ or lower by S&P and Fitch or Ba1 or lower by Moody's or, if unrated, determined by the Fund's Adviser and/or Sub-Adviser to be of comparable quality) debt securities of U.S. and foreign issuers, including issuers located in countries with new or emerging securities markets.[11] The Fund's investments in non-investment grade debt securities, including non-investment grade senior loans and other non-investment grade floating-rate debt securities, will be limited to 50% of its total assets.

The senior loans in which the Fund will invest generally will be loans rated by a Nationally Recognized Statistical Rating Organization (''NRSRO'') registered with the Commission. However, the Fund also may invest in senior loans that (i) may not be rated by a NRSRO, or listed on any national exchange; or (ii) are not secured by collateral.

The Fund may invest in mortgage-backed and asset-backed securities. Mortgage-backed securities are mortgage-related securities issued or guaranteed by the U.S. Government, its agencies and instrumentalities, or issued by non-government entities. Mortgage-related securities represent pools of mortgage loans assembled for sale to investors by various government agencies such as Government National Mortgage Association (''GNMA'') and government-related organizations such as Federal National Mortgage Association (''FNMA'') and Federal Home Loan Mortgage Corporation (''FHLMC''), as well as by non-government issuers such as commercial banks, savings and loan institutions, mortgage bankers and private mortgage insurance companies. Other asset-backed securities are structured like mortgage-backed securities, but instead of mortgage loans or interests in mortgage loans, the underlying assets may include items such as motor vehicle installment sales or installment loan contracts, leases of various types of real and personal property, and receivables from credit card agreements and from sales of personal property. Asset-backed securities typically have no U.S. Government backing. The Fund will limit investments in mortgage-backed and asset-backed securities issued or guaranteed by non-government entities to 15% of the Fund's net assets.

The Fund may invest a portion of its assets in U.S. agency mortgage pass-through securities. The term ''U.S. agency mortgage pass-through security'' refers to a category of pass-through securities backed by pools of mortgages and issued by one of several U.S. government-sponsored enterprises: GNMA, FNMA, or FHLMC.

The Fund may invest a portion of its assets in various types of U.S. Government obligations. U.S. Government obligations are a type of bond. U.S. Government obligations include securities issued or guaranteed as to principal and interest by the U.S. Government, its agencies or instrumentalities.[12] Payment of principal and interest on U.S. Government obligations (i) may be backed by the full faith and credit of the United States (as with U.S. Treasury obligations and GNMA certificates) or (ii) may be backed solely by the issuing or guaranteeing agency or instrumentality itself (as with FNMA, FHLMC and Federal Home Loan Bank).

db–X Managed Municipal Bond Fund—Principal Investments

According to the Registration Statement, the investment objective of the db-X Managed Municipal Bond Fund will be to seek to provide current income consistent with total return.

Under normal market conditions,[13] the Fund will invest at least 80% of net assets, plus the amount of any borrowings for investment purposes, in securities issued by municipalities across the United States (and including the Commonwealth of Puerto Rico and U.S. territories such as the U.S. Virgin Islands and Guam) whose income is free from regular federal income tax.

Although the Fund may adjust duration of its holdings over a wider range, it generally intends to keep it between five and nine years.

The Fund may buy municipal securities of all maturities. These may include revenue bonds (which are backed by revenues from a particular source) and general obligation bonds (which are typically backed by the issuer's ability to levy taxes). They may also include municipal lease obligations and investments representing an interest therein.

The Fund will normally invest at least 65% of total assets in municipal securities of top credit quality (rated AAA+ through A- by S&P and Fitch or Aaa1 through A3 by Moody's or, if unrated, determined by the Fund's Adviser and/or Sub-Adviser to be of comparable quality). The Fund may invest up to 10% of total assets in high yield debt securities (commonly referred to as ''junk'' bonds) rated BB+ or lower by S&P and Fitch or Ba1 or lower by Moody's or, if unrated, determined by the Fund's Adviser and/or Sub-Adviser to be of comparable quality.[14]

Other Investments

While each Fund, under normal market conditions, will invest primarily in debt securities, as described above, each Fund may invest its remaining assets in other securities and financial instruments, as described below.

The db–X Managed Municipal Bond Fund may invest a portion of its assets in various types of U.S. Government obligations. U.S. Government obligations are a type of bond. U.S. Government obligations include securities issued or guaranteed as to principal and interest by the U.S. Government, its agencies or instrumentalities. Payment of principal and interest on U.S. Government obligations (i) may be backed by the full faith and credit of the United States (as with U.S. Treasury obligations and GNMA certificates) or (ii) may be backed solely by the issuing or guaranteeing agency or instrumentality itself (as with FNMA, FHLMC and Federal Home Loan Bank).

The db–X Ultra-Short Duration Fund generally intends to use interest rate swaps, and/or small amounts of currency forwards, which are types of derivatives (a contract whose value is based on, for example, indices, currencies or securities) for duration management (*e.g.,* reducing the sensitivity of a Fund's portfolio to interest rate changes). In addition, the Fund generally may use (i) credit default swaps based on one or more issues of debt securities or on an index or indexes of debt securities to increase the Fund's income, to gain exposure to a bond issuer's credit quality characteristics without directly investing in the bond, or to hedge the risk of default on bonds held in the Fund's portfolio; and (ii) total return swaps based on one or more issues of debt securities or on an index or indexes of debt securities, or interest rate swaps, to seek to enhance potential gains.

The db–X Managed Municipal Bond Fund generally may use interest rate swaps or U.S. Treasury futures.

[11] Generally, with respect to at least 75% of the Fund's portfolio, a corporate bond of a developed market issuer must have $100 million or more par amount outstanding to be considered as an eligible investment and a corporate bond of an emerging market issuer must have $200 million or more par amount outstanding to be considered as an eligible investment.

[12] U.S. Government obligations include, but are not limited to, mortgage-backed and asset-backed securities that are issued or guaranteed by the U.S. government, as well as U.S. agency mortgage pass-through securities, as described above.

[13] *See* note 8, *supra.*

[14] *See* note 10, *supra.*

Investments in derivative instruments by the Funds will be made in accordance with the 1940 Act and consistent with each Fund's investment objective and policies. To limit the potential risk associated with transactions in derivatives, the Funds will segregate or ''earmark'' assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board of Directors (''Board'') and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Funds will include appropriate risk disclosure in their offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Funds, including the Funds' use of derivatives, may give rise to leverage, causing the Funds' Shares to be more volatile than if they had not been leveraged.

The db–X Ultra Short-Duration Fund may invest in convertible securities traded on an exchange or over-the-counter (''OTC''). Convertible securities include bonds, debentures, notes, preferred stocks and other securities that may be converted into a prescribed amount of common stock or other equity securities at a specified price and time. The holder of convertible securities is entitled to receive interest paid or accrued on debt, or dividends paid or accrued on preferred stock, until the security matures or is converted.

Each Fund may invest in the securities of other investment companies (including money market funds and exchange-listed ETFs) to the extent permitted under the 1940 Act.

The Funds will not invest in leveraged or leveraged inverse ETFs.

Investment Restrictions

Each Fund will be classified as ''non-diversified'' under the 1940 Act.[15]

Each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities [16] deemed illiquid by the Adviser,[17] consistent with Commission guidance. Each Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of such Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[18]

While each of the Funds will be actively-managed and not tied to an index, under normal market conditions, each Fund's respective portfolio will meet certain criteria for index-based, fixed income ETFs contained in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02.[19]

With respect to qualification as a regulated investment company (''RIC''), each Fund intends to maintain the required level of diversification and otherwise conduct its operations so as to qualify as a RIC for purposes of Subchapter M of the Internal Revenue Code of 1986, as amended.[20]

With respect to each of the Funds, such Fund's investments will be consistent with the Fund's investment objective.

The Funds will not invest in equity securities other than convertible securities and securities issued by other investment companies, including money market funds and ETFs. The Funds will not invest in non-U.S. equity securities.

Creation and Redemption of Shares

According to the Registration Statement, prior to trading in the secondary market, Shares of each of the respective Funds will be ''created'' at net asset value (''NAV'') by market makers, large investors and institutions only in block-size creation units of 50,000 Shares or multiples thereof (''Creation Units''). The size of a Creation Unit will be subject to change. Each ''creator'' or ''Authorized Participant'' will enter into an Authorized Participant agreement with the Distributor. Only an Authorized Participant may create or redeem Creation Units directly with the respective Fund. Creation Units generally will be issued and redeemed in exchange for a specific basket of securities approximating the holdings of the applicable Fund and a designated amount of cash. To the extent the db–X Ultra-Short Duration Fund invests in foreign currency forward contracts, such Fund will be able to pay out a portion of its redemption proceeds in cash rather than through the in-kind delivery of portfolio securities. Except when aggregated in Creation Units, Shares will not be redeemable by a Fund. The prices at which creations and redemptions occur will be based on the next calculation of NAV after an order is received in a form described in an Authorized Participant agreement.

Orders for creations and redemptions of Shares must be made by an Authorized Participant that is either a member of the Continuous Net Settlement System of the National Securities Clearing Corporation or a Depository Trust Company participant.

[15] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

[16] Rule 144A securities are securities which, while privately placed, are eligible for purchase and resale pursuant to Rule 144A. According to the Registration Statement, Rule 144A permits certain qualified institutional buyers, such as the Funds, to trade in privately placed securities even though such securities are not registered under the Securities Act.

[17] In reaching liquidity decisions, the Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

[18] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act).

[19] *See* NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 governing fixed income based Investment Company Units. The requirements of Rule 5.2(j)(3), Commentary .02(a) include the following: (i) Components that in the aggregate account for at least 75% of the weight of the index or portfolio must have a minimum original principal amount outstanding of $100 million or more (Rule 5.2(j)(3), Commentary .02(a)(2)); (ii) no component fixed-income security (excluding Treasury Securities and government-sponsored entity securities) will represent more than 30% of the weight of the index or portfolio, and the five highest weighted component fixed-income securities will not in the aggregate account for more than 65% of the weight of the index or portfolio (Rule 5.2(j)(3), Commentary.02(a)(4)); and (iii) an underlying index or portfolio (excluding one consisting entirely of exempted securities) must include securities from a minimum of 13 non-affiliated issuers (Rule 5.2(j)(3), Commentary .02(a)(5)). The db–X Managed Municipal Bond Fund will meet the criteria in Rule 5.2(j)(3) as referenced above except for the criteria in Rule 5.2(j)(3), Commentary .02(a)(2).

[20] 26 U.S.C. 851.

Net Asset Value

According to the Registration Statement, NAV will be calculated by deducting all of the respective Fund's liabilities from the total value of its assets and dividing the result by the number of Shares outstanding, rounding to the nearest cent. Expenses and fees, including without limitation, the management and administration fees, will be accrued daily and taken into account for purposes of determining NAV. The NAV per Share will be calculated as of the close of the regular trading session on the New York Stock Exchange (''NYSE'') (ordinarily 4:00 p.m., Eastern time) on each day that such exchange is open.

In computing each Fund's NAV, such Fund's debt securities, including debt securities of U.S. and foreign government agencies and instrumentalities, U.S. Government obligations (including U.S. agency mortgage pass-through securities), U.S. and foreign corporate debt securities, mortgage-backed and asset backed securities, senior loans, fixed and other floating-rate debt securities; money market instruments, taxable municipal bonds, and tax-exempt municipal bonds, will be valued based on price quotations or other equivalent indications of value provided by a third-party pricing service. Any such third-party pricing service may use a variety of methodologies to value some or all of a Fund's debt securities to determine the market price. For example, the prices of securities with characteristics similar to those held by each Fund may be used to assist with the pricing process. In addition, the pricing service may use proprietary pricing models. In certain cases, some of a Fund's debt securities may be valued at the mean between the last available bid and ask prices for such securities or, if such prices are not available, at prices for securities of comparable maturity, quality, and type. Short-term securities for which market quotations are not readily available will be valued at amortized cost, which approximates market value. ETFs and exchange-traded convertible securities, will be valued at market value, which will generally be determined using the last reported official closing or last trading price on the exchange or market on which the security is primarily traded at the time of valuation. Convertible securities traded OTC will be valued at market value using third-party pricing services as a primary information source and quotes obtained from brokers and dealers as a secondary information source. Investment company securities (other than ETFs), including money market funds, will be valued at NAV. Currency forwards, credit default swaps, total return swaps, and interest rate swaps will normally be valued on the basis of quotes obtained from brokers and dealers or third-party pricing services. U.S. Treasury futures will be valued at the settlement price determined by the applicable exchange.

If a security's market price (or other indicator of market value such as that obtained from a pricing service) is not readily available or does not otherwise accurately reflect the fair value of the security, the security will be valued by another method that the Adviser or Sub-Adviser believes will better reflect fair value in accordance with the Trust's valuation policies and procedures approved by the Trust's Board.[21] Each Fund may use fair value pricing in a variety of circumstances, including but not limited to, situations when the value of a security in a respective Fund's portfolio has been materially affected by events occurring after the close of the market on which the security is principally traded (such as a corporate action or other news that may materially affect the price of a security) or trading in a security has been suspended or halted.

Portfolio Indicative Value

The Portfolio Indicative Value (''PIV'') as defined in NYSE Arca Equities Rule 8.600(c)(3) of Shares of each of the Funds will be widely disseminated by one or more major market data vendors at least every fifteen seconds during the Exchange's Core Trading Session. The PIV of Shares of each Fund will be based on current information regarding the value of securities and other assets in each Fund's Disclosed Portfolio, as defined in NYSE Arca Equities Rule 8.600(c)(2). To the extent the Funds hold securities and instruments that are traded in foreign markets, the PIV calculations will be based on such foreign market prices and may not reflect events that occur subsequent to the foreign market's close.[22] As a result, premiums and discounts between the approximate value and the market price could be affected. This approximate value should not be viewed as a ''real-time'' update of the NAV per Share of the applicable Fund because the approximate value may not be calculated in the same manner as the NAV, which is computed once a day, generally at the end of the business day.

Availability of Information

Information respecting each Fund will be available at the following url: *www.dbxus.com* (''Web site''). The Web site will be publicly available prior to the public offering of Shares, and will include a form of each prospectus for each respective Fund, which will be downloadable. Each Fund's Web site will include additional quantitative information updated on a daily basis, including, for each Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[23] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, each Fund will disclose on the Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for such Fund's calculation of NAV at the end of the business day.[24]

Each Fund's portfolio holdings will be disclosed on the Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day.

On a daily basis, the Adviser or Sub-Adviser will disclose on the Funds' Web site for each portfolio security and financial instrument of each Fund the following information: ticker symbol (if applicable), name of security and financial instrument, number of shares, if applicable, and dollar value of securities and financial instruments held in the portfolio, and percentage

[21] If market conditions make it difficult to value some investments, a Fund may value these investments using more subjective methods, such as fair value pricing. In such cases, the value determined for an investment could be different than the value realized upon such investment's sale. The Adviser and Sub-Adviser manage each Fund's investments and its business operations subject to the oversight of the Trust's Board.

[22] As the respective international local markets close, the market value of the deposit securities will continue to be updated for foreign exchange rates for the remainder of the U.S. trading day at the prescribed 15 second intervals.

[23] The Bid/Ask Price of a Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of a Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Funds and their service providers.

[24] Under accounting procedures followed by each Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, a Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

weighting of the security and financial instrument in the portfolio. The Web site information will be publicly available at no charge. In addition, intra-day and end-of-day prices for all debt securities and financial instruments held by each Fund will be available through major market data vendors and broker-dealers.

In addition, a basket composition file disclosing each Fund's securities, which will include the security names and share quantities required to be delivered in exchange for Fund Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via the National Securities Clearing Corporation. The basket will represent one Creation Unit of the Fund. Investors can also obtain the Trust's Statement of Additional Information (''SAI''), each Fund's Shareholder Reports, and the Trust's Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. Intra-day and closing price information regarding debt securities, including debt securities of U.S. and foreign government agencies and instrumentalities, U.S. Government obligations (including U.S. agency mortgage pass-through securities), U.S. and foreign corporate debt securities, mortgage-backed and asset backed securities, senior loans, fixed and other floating-rate debt securities, money market instruments, taxable municipal bonds, and tax-exempt municipal bonds will be available from major market data vendors. Price information regarding U.S. Treasury futures will be available from the applicable exchange and from major market data vendors. Price information regarding currency forwards will be available from major market data vendors. Major market data vendors provide intra-day and end-of-day prices for credit default swaps, interest rate swaps and total return swaps. Price information for exchange-traded equity investments, including ETFs and exchange-traded convertible securities, will be available from the applicable exchange or major market data vendors. Price information for convertible securities traded OTC and other investment company securities, including money market funds, also will be available from major market data vendors.

In addition, as noted above, the PIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.[25] The dissemination of the PIV, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of each Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of each Fund.[26] Trading in Shares of either Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the applicable Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. Eastern Time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares issued in connection with each respective Fund will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, each Fund will be in compliance with Rule 10A–3 [27] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for each Fund will be outstanding at the commencement of trading on the Exchange. With respect to each Fund, the Exchange will obtain a representation from the issuer of the respective Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[28] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, exchange-traded

[25] Currently, it is the Exchange's understanding that several major market data vendors widely disseminate PIVs taken from CTA or other data feeds.

[26] *See* NYSE Arca Equities Rule 7.12.

[27] 17 CFR 240.10A–3.

[28] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

investment company securities, exchange-traded convertible securities and exchange-traded futures with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and FINRA, on behalf of the Exchange, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-traded investment company securities, exchange-traded convertible securities and exchange-traded futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[29] FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Funds reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that each Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern time each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[30] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Adviser and Sub-Adviser are not registered as broker-dealers but each is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio. The Shares of each Fund will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Funds will not invest in non-U.S. equity securities. The Funds will not invest in leveraged or leveraged inverse ETFs. The db-X Ultra-Short Duration Fund will limit investments in mortgage-backed and asset-backed securities issued or guaranteed by non-government entities to 15% of the Fund's net assets. Each Fund's respective portfolio will meet certain criteria for index-based, fixed income ETFs contained in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02, as described above. Each Fund's investments will be consistent with such Fund's investment objective. To limit the potential risk associated with transactions in derivatives, the Funds will segregate or ''earmark'' assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. Quotation and last sale information for the Shares will be available via the CTA high-speed line. In addition, the PIV, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. Each Fund will disclose on its Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for each Fund's calculation of NAV at the end of the business day. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Funds may be halted. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, exchange-traded investment company securities, exchange-traded convertible securities and exchange-traded futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-traded investment company securities, exchange-traded convertible securities and exchange-traded futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Funds reported to FINRA's TRACE.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Adviser and Sub-Adviser are affiliated with a broker-dealer and have represented that they have implemented a fire wall with respect to their respective broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. The Exchange will obtain a representation from the issuer of the Shares of each Fund that the NAV per Share of each Fund will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund [sic] and the Shares, thereby promoting market transparency. Each Fund's portfolio holdings will be disclosed on the Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following

[29] For a list of the current members of ISG, see *http://www.isgportal.org*. The Exchange notes that not all components of a Fund's portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[30] 15 U.S.C. 78f(b)(5).

day. Moreover, the PIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, each Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The Web site for each Fund will include a form of the prospectus for each Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of each Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of each Fund may be halted. In addition, as noted above, investors will have ready access to information regarding each Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of actively-managed exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, exchange-traded investment company securities, exchange-traded convertible securities and exchange-traded futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-traded investment company securities, exchange-traded convertible securities and exchange-traded futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding a Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of other actively-managed exchange-traded products investing principally in debt securities and that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the 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–NYSEArca–2013–135 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–NYSEArca–2013–135. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2013–135 and should be submitted on or before February 5, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00579 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71279; File No. SR–NASDAQ–2013–166]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Modifications to Fees and Credits Under Rules 7014 and 7018

January 9, 2014.

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 December 30, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is proposing to make changes to its schedule of fees and credits applicable to execution of orders under Rule 7018, and its Investor Support Program (''ISP'') of credits under Rule 7014. NASDAQ proposes to implement the proposed rule change on January 2, 2014. The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to make two pricing changes, effective January 2, 2014. First, NASDAQ is modifying the ISP by eliminating one of the set of criteria under which a member may qualify for a $0.0001 credit under the program; the change reflects the fact that members have not, in the recent past, qualified for the program under the set of criteria that is being eliminated, and therefore the change will not affect ISP participants in any respect. The ISP enables NASDAQ members to earn a monthly fee credit for providing additional liquidity to NASDAQ and increasing the NASDAQ-traded volume of what are generally considered to be retail and institutional investor orders in exchange-traded securities (''targeted liquidity''). Participants in the ISP are required to designate specific NASDAQ order entry ports for use under the ISP and to meet specified criteria focused on market participation, liquidity provision, and high rates of order execution. Currently, a member that participates in the ISP receives a credit of $0.00005, $0.0001, or $0.0002 per share with respect to the number of shares of displayed liquidity provided by the member that execute at $1 or more per share.[3] The precise credit rate is determined by factors designed to measure the degree of the member's participation in the Nasdaq Market Center and the percentage of orders that it enters that execute—its ''ISP Execution Ratio''—which is seen as indicative of retail or institutional participation.

Under the set of criteria that is being eliminated, a member might qualify for a credit of $0.0002 per share with respect to shares of displayed liquidity executed at a price of $1 or more and entered through ISP-designated ports, and $0.00005 per share with respect to all other shares of displayed liquidity executed at a price of $1 or more, if the following conditions were met:

(1) The member's Participation Ratio[4] for the month exceeds its Baseline Participation Ratio[5] by at least 0.30%. The requirement reflects the expectation that in order to earn a higher rebate under the program, a member participating in the program must increase its participation in NASDAQ as compared with an historical baseline.

(2) The member's ''ISP Execution Ratio'' for the month must be less than 10. The ISP Execution Ratio is defined as ''the ratio of (A) the total number of liquidity-providing orders entered by a member through its ISP-designated ports during the specified time period to (B) the number of liquidity-providing orders entered by such member through its ISP-designated ports and executed (in full or partially) in the Nasdaq Market Center during such time period; provided that: (i) No order shall be counted as executed more than once; and (ii) no Pegged Orders, odd-lot orders, or MIOC or SIOC orders shall be included in the tabulation.''[6] Thus, the definition requires a ratio between the total number of orders that post to the NASDAQ book and the number of such orders that actually execute that is low, a characteristic that NASDAQ believes to be reflective of retail and institutional order flow.

(3) The shares of liquidity provided through ISP-designated ports during the month are equal to or greater than 0.2% of Consolidated Volume during the month, reflecting the ISP's goals of encouraging higher levels of liquidity provision.

(4) At least 80% of the liquidity provided by the member during the month is provided through ISP-designated ports. This requirement is designed to mitigate ''gaming'' of the program by firms that do not generally represent retail or institutional order flow but that nevertheless are able to channel a portion of their orders that

[3] A participant in the ISP must designate specific order-entry ports for use in tabulating certain requirements under the program.

[4] ''Participation Ratio'' is defined as follows: ''[F]or a given member in a given month, the ratio of (A) the number of shares of liquidity provided in orders entered by the member through any of its Nasdaq ports and executed in the Nasdaq Market Center during such month to (B) the Consolidated Volume.'' ''Consolidated Volume'' is defined as follows: ''[T]he total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month, excluding executed orders with a size of less than one round lot.''

[5] ''Baseline Participation Ratio'' is defined as follows: ''[W]ith respect to a member, the lower of such member's Participation Ratio for the month of August 2010 or the month of August 2011, provided that in calculating such Participation Ratios, the numerator shall be increased by the amount (if any) of the member's Indirect Order Flow for such month, and provided further that if the result is zero for either month, the Baseline Participation Ratio shall be deemed to be 0.485% (when rounded to three decimal places).'' ''Indirect Order Flow'' is defined as follows: ''[F]or a given member in a given month, the number of shares of liquidity provided in orders entered into the Nasdaq Market Center at the member's direction by another member with minimal substantive intermediation by such other member and executed in the Nasdaq Market Center during such month.''

[6] These terms have the meanings assigned to them in Rule 4751. MIOC and SIOC orders are forms of ''immediate or cancel'' orders and therefore cannot be liquidity-providing orders.

they intend to execute through ISP-designated ports and thereby receive a credit with respect to those orders.

(5) The member has an average daily volume during the month of more than 100,000 contracts of liquidity provided through one or more of its Nasdaq Options Market MPIDs, provided that such liquidity is provided through Public Customer Orders, as defined in Chapter I, Section 1 of the Nasdaq Options Market rules.

(6) The ratio between shares of liquidity provided through ISP-designated ports and total shares accessed, provided or routed through ISP-designated ports during the month is at least 0.70.

As noted above, no member has met these criteria in the recent past. Moreover, a member may qualify for an ISP credit at identical rates if it meets the following criteria:

(1) The member's Participation Ratio for the month exceeds its Baseline Participation Ratio by at least 0.43% (slightly higher than under the set of criteria this is being eliminated).

(2) The member's ''ISP Execution Ratio'' for the month must be less than 10 (identical to the set of criteria that is being eliminated).

(3) The shares of liquidity provided through ISP-designated ports during the month are equal to or greater than 0.2% of Consolidated Volume during the month (identical to the set of criteria that is being eliminated).

(4) At least 40% of the liquidity provided by the member during the month is provided through ISP-designated ports (lower than under the set of criteria that is being eliminated). This set of criteria contains no requirement with respect to usage of the Nasdaq Options Market or the ratio of shares of liquidity provided through ISP-designated ports to total shares entered through ISP-designated ports.

Second, NASDAQ is eliminating a special reduced fee that has applied to QDRK and QCST orders when they access liquidity on NASDAQ.[7] Currently, the fee for such orders is $0.0029 per share executed, but NASDAQ is increasing the fee to $0.0030 per share executed. As a result, the fee charged will be identical to the fee charged to all other liquidity-accessing orders (other than orders entered by a member qualifying for a volume-based discount that will remain on the fee schedule). The reduced fee had been adopted as a promotional discount when QDRK and QCST were first introduced in early 2013. With usage of the routing strategies now established, NASDAQ has concluded that the continuation of the promotional discount is no longer warranted.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The change with respect to the ISP are reasonable because no member currently qualifies or has recently qualified for the set of criteria that is being eliminated; accordingly, the change will have no impact on credits received by members. The change is consistent with an equitable allocation of fees and is not unfairly discriminatory because members may continue to qualify for the ISP under other sets of criteria, including a set of criteria that results in identical credits to the set of criteria that is being eliminated and that features requirements that are likely to be easier to achieve that [sic] those contained in the set that is being eliminated.

The change with respect to QDRK and QCST is reasonable because the resulting fee of $0.0030 per share executed is identical to the fee charged with respect to most other orders that access liquidity at NASDAQ. Such fee is consistent with the requirements of Rule 610 under Regulation NMS [10] with respect to the permissible level of access fees. The change is consistent with an equitable allocation of fees and is not unfairly discriminatory because it will make the fees charged for accessing liquidity through QCST and QDRK consistent with the fees charged for other orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and rebates in response, and because market participants may readily adjust their order routing practices, NASDAQ believes that the degree to which fee or rebate changes in this market may impose any burden on competition is extremely limited. In this instance, the change to the ISP is unlikely to have any effect on competition, since no member currently qualifies for the set of criteria that is being eliminated. However, the continuation of the ISP reflects the ongoing importance of incentive programs in the current competitive environment as mechanisms for ensuring that fees and credits are set at levels that attracts [sic] order flow. Similarly, the change with respect to fees for QDRK and QCST does not have the potential to impair competition since the routing services offered by NASDAQ are optional and are replicated by routing services offered by others; thus, members are free to use other means of routing orders if they believe that the fees associated with NASDAQ's services are too high. Thus, because members and competing order execution venues remain free to adopt competitive responses, the changes do not impair the ability of markets or market participants to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[7] QDRK is a routing option under which orders check the Nasdaq Market Center for available shares and simultaneously route the remaining shares to destinations on the applicable routing table that are not posting Protected Quotations within the meaning of Regulation NMS. If shares remain un-executed after routing, they are posted on the book. Once on the book, if the order is subsequently locked or crossed by another market center, NASDAQ will not route the order to the locking or crossing market center. QCST is a routing option under which orders check the Nasdaq Market Center for available shares and simultaneously route the remaining shares to destinations on the applicable routing table that are not posting Protected Quotations within the meaning of Regulation NMS and to certain, but not all, exchanges. If shares remain un-executed after routing, they are posted on the book. Once on the book, if the order is subsequently locked or crossed by another market center, NASDAQ will not route the order to the locking or crossing market center.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] 17 CFR 242.610.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 [12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–166 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–NASDAQ–2013–166. 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 20549–1090, 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 offices of NASDAQ. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–166, and should be submitted on or before February 5, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00584 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71265; File No. SR–FICC–2013–10]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Establish the Minimum Financial Requirements for the Existing Membership Category of Registered Investment Company Netting Members in the Government Securities Division

January 9, 2014.

I. Introduction

On November 12, 2013, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2013–10 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 November 29, 2013.[3] The Commission received one comment letter in response to the proposed rule change.[4] For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

The purpose of this rule filing is to amend the Rulebook (''Rules'') of the Government Securities Division (''GSD'') of FICC to establish the minimum financial requirements for the existing membership category of Registered Investment Company Netting Members (''RIC'').[5] Historically, the GSD has served the ''sell-side'' community (which primarily consists of entities such as banks and broker-dealers). FICC believes the participation of RICs as guaranteed service members will contribute to the safety, efficiency, and transparency of the market by allowing FICC to capture a greater part of the activity of its existing members and by introducing activity of current non-members to FICC. FICC also believes that RICs will benefit from the GSD netting service and the associated operational efficiencies of a central counterparty service. RICs will not be permitted to use the GCF Repo® service.

Currently, RICs are already a permitted category in the GSD Rules; the rule as amended establishes minimum financial requirements for RICs.[6] Specifically, Rule 2A (''Initial Membership Requirements'') of the GSD Rules provides that the minimum financial requirement for RICs is $100 million in net asset value.

Currently, GSD Rule 3, ''Ongoing Membership Requirements,'' permits GSD to assess a premium against a netting member whose Clearing Fund requirement exceeds its specified regulatory capital figure.[7] Pursuant to this rule change, GSD will now be permitted to assess RICs in the same manner as other members.

Pursuant to GSD Rules, Tier One Netting Members are subject to potential loss mutualization and Tier Two Netting Members are not. Pursuant to this rule change, RICs will be Tier Two Netting

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 70925 (Nov. 22, 2013), 78 FR 71702 (Nov. 29, 2013) (SR–FICC–2013–09).

[4] Letter from Peter Nowicki (December 5, 2013) (expressing general support for allowing Registered Investment Companies to participate in netting and clearing).

[5] Pursuant to GSD Rule 1, the term ''Registered Investment Company Netting Member'' is an Investment Company (1) that is registered with the Commission, (2) admitted to membership in GSD's Netting System pursuant to the GSD Rules, and (3) whose membership in the Netting System has not been terminated.

[6] The membership requirements for RICs will be the same as those already in place for RICs at FICC's Mortgage-Backed Securities Division (''MBSD'').

[7] By way of example, under GSD Rule 4, if a member has a Clearing Fund requirement of $11.4 million and excess net capital of $10 million, its ''ratio'' is 1.14 (or 114 percent), and the applicable collateral premium would be 114 percent of $1.4 million (which is equal to the amount by which the member's Clearing Fund requirement exceeds its excess net capital), or $1,596,000. The current GSD Rules provide that FICC has the right to: (i) Apply a lesser collateral premium (including no premium) based on specific circumstances (such as a member being subject to an unexpected haircut or capital charge that does not fundamentally change its risk profile), and (ii) return all or a portion of the collateral premium amount if it believes that the member's risk profile does not require the maintenance of that amount.

Members because they are not permitted by law to mutualize loss.[8]

Under FICC's current loss allocation methodology, any loss allocation is first made against the retained earnings of FICC attributable to the GSD (after application of the defaulting member's Clearing Fund, funds-only settlement amounts and any other collateral on deposit with the GSD and any funds from any cross-margining or cross-guaranty agreements), in an amount up to 25 percent of FICC's retained earnings or such higher amount as may be approved by the Board of Directors of FICC.[9] If a loss still remains, the GSD will divide the loss between the Tier One Netting Members and the Tier Two Netting Members. Tier One Netting Members will be allocated the loss applicable to them first by assessing the Clearing Fund deposit of each such member in the amount of up to $50,000, equally. If a loss still remains, Tier One Netting Members will be assessed ratably, in accordance with the respective amounts of their Required Fund Deposits, based on the average daily amount of the member's Required Fund Deposit over the prior twelve months. Applicable Tier Two Netting Members will be assigned the Tier Two loss amount using a loss allocation methodology based on the activity that the Tier Two Netting Member conducted with the defaulting member.[10]

FICC is also amending GSD's rules to state explicitly that GSD will make its services available to Persons [11] in other categories as FICC may determine, subject to the approval of the Commission. A parallel provision is already contained in MBSD's rules.[12]

III. Discussion

Section 19(b)(2)(C) of the Act [13] directs the Commission to approve a self-regulatory organization's proposed rule change if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(B) [14] states that a clearing agency shall not be registered unless the Commission determines that the rules of the clearing agency provide that certain categories of parties may become participants, subject to certain provisions governing denials of participation. RICs are one of the listed categories of participants deemed appropriate to the development of a national system for the prompt and accurate clearance and settlement of securities transactions.[15] Moreover, Section 17A(b)(3)(F) of the Act [16] requires, among other things, that the rules of a clearing agency registered with the Commission be designed to promote the prompt and accurate clearance and settlement of securities transactions and, in general to protect investors and the public interest.

The Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(B) and (F) of the Act.[17] The proposal establishes minimum financial requirements for RICs, thus extending GSD membership to participants in a category enumerated by Section 17A(b)(3)(B). Furthermore, it promotes the prompt and accurate clearance and settlement of securities transactions and protects investors and the public interest by allowing FICC to clear a greater market share of activity of its existing members and non-members. [18]

IV. Conclusion

On the basis of the foregoing, the Commission concludes that the proposal is consistent with the requirements of the Act, particularly the requirements of Section 17A of the Act,[19] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (File No. SR–FICC–2013–10) be and hereby is *approved.*[21]

For the Commission by the Division of Trading and Markets, pursuant todelegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00576 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

[8] Tier One Members include banks, dealers, futures commission merchants, government securities issuers and registered clearing agencies and Tier Two Members include RICs. *See* Securities Exchange Act Release No. 63986 (Feb. 28, 2011), 76 FR 12144 (Mar. 4, 2011) (SR–FICC–2010–09).

[9] *See* GSD Rule 4.

[10] GSD Rule 4, Section 7 pertains to the satisfaction of any loss incurred by FICC as a result of the failure of a defaulting member to fulfill its obligations to FICC. MBSD Rule 4 contains the same loss allocation methodology.

[11] Pursuant to GSD Rule 1, the term ''Person'' means a partnership, corporation, limited liability corporation or other organization, entity, or individual.

[12] *See* MBSD Rule 2A, Section 1.

[13] 15 U.S.C. 78s(b)(2)(C).

[14] 15 U.S.C. 78q–1(b)(3)(B).

[15] *See Id.*

[16] 15 U.S.C. 78q–1(b)(3)(F).

[17] 15 U.S.C. 78q–1(b)(3)(B) and (F).

[18] This Order addresses whether the proposed rule change is consistent with the Act. As such, this Order does not address any relief that may be necessary under the Investment Company Act of 1940 for an individual RIC to participate as a Registered Investment Company Netting Member as defined by GSD Rule 1. *See* footnote 5, *supra.*

[19] 15 U.S.C. 78q–1.

[20] 15 U.S.C. 78s(b)(2).

[21] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71271; File No. SR–NYSEArca–2013–122]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Relating to the Use of Derivative Instruments by PIMCO Total Return Exchange Traded Fund

January 9, 2014.

On November 6, 2013, NYSE Arca, Inc. filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the use of derivative instruments by the PIMCO Total Return Exchange Traded Fund (''Fund''). The proposed rule change was published for comment in the **Federal Register** on November 26, 2013.[3] The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would, among other things, permit the continued listing and trading of shares

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 70905 (November 20, 2013), 78 FR 70610.

[4] 15 U.S.C. 78s(b)(2).

of the Fund that seeks to invest in certain derivative instruments, including forwards, exchange-traded and over-the-counter options contracts, exchange-traded futures contracts, options on futures contracts, and swap agreements.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates February 24, 2014, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEArca-2013–122).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00580 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71278; File No. SR–C2–2013–043]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

January 9, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 30, 2013, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.c2exchange.com/Legal/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule with regard to PULSe Workstation routing (specifically, with regard to routing from one PULSe Workstation to another). By way of background, the PULSe workstation is a front-end order entry system designed for use with respect to orders that may be sent to the trading systems of C2. In addition, the PULSe workstation provides a user with the capability to send options orders to other U.S. options exchanges and/or stock orders to other U.S. stock exchanges and trading centers[3] (''away-market routing'').[4] PULSe Workstation users also have the capability to send orders between PULSe workstations. For example, a user is able to send an order from a PULSe workstation located in New York to a PULSe workstation located in Chicago. The ability to send orders ''PULSe-to-PULSe'' is available for use within a TPH (and any Non-TPHs to whom the TPH makes the PULSe workstation available) and between TPHs that use the PULSe workstation. A TPH may establish a PULSe-to-PULSe connection with another TPH by contacting C2, who will permission the connection. Before setting up the connection, both TPHs need to acknowledge in writing (*e.g.,* including via email) their agreement to establish the mutual connection.

The Exchange hereby proposes to impose a monthly PULSe-to-PULSe Routing fee of $50 for each receiving TPH. This means that each TPH with a PULSe Workstation that elects to receive orders from another PULSe Workstation will be assessed this fee. The Exchange proposes to assess the fee to cover costs associated with the development of PULSe-to-PULSe routing, as well as the upkeep of such systems. The Exchange proposes to assess the fee to the receiving TPH because, by electing to receive PULSe-to-PULSe orders, the receiving TPH then gets the ability to execute those orders on the Exchange.

The proposed change is to take effect on January 1, 2014.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[6] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. The Exchange believes the imposition of the PULSe-to-PULSe Routing Fee is reasonable because it is intended to cover the costs associated with the development of PULSe-to-PULSe routing, as well as the upkeep of such systems. The Exchange believes that it is equitable and not unfairly discriminatory because it will be assessed to all receiving TPHs that elect to receive PULSe-to-PULSe orders. The Exchange proposes to assess the fee to the receiving TPH because, by electing to receive PULSe-to-PULSe orders, the receiving TPH then gets the ability to execute those orders on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. C2 does not believe that the proposed rule change will impose any burden on intramarket

[3] A ''trading center,'' as provided under Rule 600(b)(78) of Regulation NMS, 17 CFR 242.600(b)(78), means a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.

[4] For a more detailed description of the PULSe workstation and its other functionalities, *see, e.g.,* Securities Exchange Act Release Nos. 63246 (November 4, 2010) 75 FR 69478 (November 12, 2010) (SR–C2–2010–007), 65279 (September 7, 2011), 76 FR 56824 (September 14, 2011) (SR–C2–2011–020), 65482 (October 4, 2011), 76 FR 62879 (October 11, 2011) (SR–C2–2011–028), and 69991 (July 16, 2013), 78 FR 43956 (July 22, 2013) (SR–C2–2013–026).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

competition that is not necessary or appropriate in furtherance of the purposes of the Act because the PULSe-to-PULSe Routing Fee will be assessed to all receiving TPHs that elect to receive PULSe-to-PULSe orders. C2 does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the fee only applies to PULSe-to-PULSe routing, and is not designed for competitive reasons or to affect competition between exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and paragraph (f)(2) of Rule 19b–4 [8] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2013–043 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–C2-2013–043. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2-2013–043 and should be submitted on or before February 5, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00606 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71267; File Nos. SR–NYSE–2013–72; SR–NYSEMKT–2013–91]

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE MKT LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Changes To Establish an Institutional Liquidity Program on a One-Year Pilot Basis

January 9, 2014.

On November 7, 2013, New York Stock Exchange LLC (''NYSE'') and NYSE MKT LLC (''NYSE MKT'' and together with NYSE, 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] a proposed rule change to establish an Institutional Liquidity Program (''Program'') on a one-year pilot basis. The proposed rule changes were published for comment in the **Federal Register** on November 27, 2013.[3] To date, the Commission has received three comments on the NYSE Proposal.[4]

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for these filings is January 11, 2014.

The Commission is extending the 45-day time period for Commission action on the proposed rule changes. The Commission finds that it is appropriate to designate a longer period to take action on the proposed rule changes so that it has sufficient time to consider the Proposals and the issues raised by the comment letters that have been submitted in connection with the Proposals.

Accordingly, pursuant to Section 19(b)(2) of the Act,[6] the Commission designates February 25, 2014 as the date by which the Commission should either

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 70909 (November 21, 2013), 78 FR 71002 (SR–NYSE–2013–72) (''NYSE Proposal''); and 70910 (November 21, 2013), 78 FR 70992 (SR–NYSEMKT–2013–91) (''NYSE MKT Proposal'') (collectively, the ''Proposals'').

[4] *See* Letters to the Commission from James Allen, Head, and Rhodri Pierce, Director, Capital Markets Policy, CFA Institute (Dec. 18, 2013); Clive Williams, Vice President and Global Head of Trading, Andrew M. Brooks, Vice President and Head of U.S. Equity Trading, and Christopher P. Hayes, Vice President and Legal Counsel, T. Rowe Price Associates, Inc. (Dec. 18, 2013); and Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (SIFMA) (Dec. 20, 2013). The Commission notes that, while these comment letters address the NYSE proposal only, the Proposals are nearly identical, and the Commission will consider the letters to address the NYSE MKT Proposal as well.

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule changes (File Numbers SR–NYSE–2013–72 and SR–NYSEMKT–2013–91).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00577 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71268; File No. SR–OCC–2013–23]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To Provide OCC With Authority in Emergency Circumstances To Extend, Waive, or Suspend the Operation of Its By-Laws, Rules, Policies and Procedures, or Any Other Rules Issued by OCC

January 9, 2014.

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 December 27, 2013, The Options Clearing Corporation (''OCC'') 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 OCC. OCC filed Amendment No. 1 to the proposed rule change on January 8, 2014.[3] 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 purpose of the proposed rule change is to provide OCC with authority in emergency circumstances, subject to certain conditions, to waive or suspend the operation of its By-Laws, Rules, policies and procedures, or any other rules issued by OCC or to extend any time fixed thereby for the doing of any act or acts.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(i) Purpose of the Proposed Rule Change

The purpose of the proposed rule change is to amend OCC's By-Laws to provide OCC with authority in emergency circumstances, subject to certain conditions, to waive or suspend the operation of its By-Laws, Rules, policies and procedures, or any other rules issued by OCC (collectively, the ''Rules'') or to extend any time fixed thereby for the doing of any act or acts. The proposed rule change is patterned on, although not identical to, the existing rule of a registered clearing agency that was previously approved by the Commission.[4] OCC is filing this Amendment No. 1 to: (1) Clarify OCC's ability to extend the time fixed in certain Rules for the doing of any act or acts in emergency situations, (2) remove the concept of a force majeure situation from the proposed rule change and (3) make other non-material, technical, changes.

From time-to-time, OCC has faced situations in which its ability to help facilitate the national system for the prompt and accurate clearance and settlement of securities transactions has involved a need to temporarily waive or suspend certain of its Rules, or extend the time for doing any act or acts thereunder. In one instance, a temporary waiver was necessary so that OCC could facilitate the transfer, assignment, and assumption of the securities correspondent clearing business from one of its clearing members to another. Through the issuance of a No-Action Letter, the staff of the Commission's Division of Trading and Markets facilitated OCC's ability to temporarily waive certain of its Rules, which was appropriate to accommodate underlying transactions involved with restructuring a clearing member's business.[5]

OCC's ability to more immediately and effectively address emergency situations would be enhanced by the proposed rule change, which would allow OCC to waive or suspend its Rules or to extend the time fixed thereby for the doing of any act or acts to address emergency circumstances. The proposed rule change would also bring OCC's Rules in line with the existing capabilities of other registered clearing agencies to waive or suspend their rules, or extend the time fixed thereby for performing any act or acts, in like circumstances.

Under the proposed rule change, OCC's Board of Directors, Chairman, Management Vice Chairman or President would be authorized to waive or suspend the Rules or extend any time fixed thereby for the doing of any act or acts, if, in his, her, or their judgment, an emergency exists and extension, waiver or suspension is necessary or advisable for the protection of OCC or would otherwise be in the public interest in order for OCC to continue to facilitate the prompt and accurate clearance and settlement of confirmed trades or other transactions and to provide its services in a safe and sound manner. If a determination were to be made other than by the Board of Directors, notice to the Board of Directors would be required as soon as practicable.

The proposed By-Law provision states that OCC would be required to notify the SEC and CFTC within two hours of any such emergency extension, waiver or suspension and that as soon as practicable, but not later than three calendar days after the date of the determination to effect the extension, waiver or suspension, OCC would provide the SEC and CFTC with a report of the material aspects of the extension, waiver or suspension and the reasons that it was deemed necessary or advisable. Any such emergency action would be permitted to continue at OCC's discretion for up to thirty calendar days, provided that the SEC or CFTC, as applicable, does not notify OCC it objects in writing. OCC would file a corresponding proposed rule

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, OCC: (i) Clarified its ability to extend the time fixed in certain Rules for the doing of any act or acts in emergency situations; (ii) removed the concept of a force majeure situation from the proposed rule change; and (iii) made other technical changes.

[4] In connection with an order approving the ability of the Mortgage-Backed Securities Division of Fixed Income Clearing Corporation (''FICC MBSD'') to perform guaranteed settlement and central counterparty services, the Commission approved FICC MBSD Rule 33, which provides authority to waive and suspend rules, or extend the time for doing any act or acts thereunder, in emergency circumstances subject to certain conditions. Securities Exchange Act Release No. 34–66550 (March 9, 2012), 77 FR 15155, 15160 (March 14, 2012) (SR–FICC–2008–01). FICC's Government Securities Division (FICC GSD Rule 42) and other registered clearing agencies, National Securities Clearing Corporation (NSCC Rule 22) and The Depository Trust Company (DTC Rule 18), maintain similar rules.

[5] The Options Clearing Corporation, SEC No-Action Letter, (June 4, 2012).

change with the SEC and/or CFTC, as applicable, during the thirty day period if it wishes to continue the extension, waiver, or suspension beyond the thirty day period. In that case, the extension, waiver or suspension would continue while the proposed rule change is under review by each agency, but if either the SEC and/or the CFTC staff, as applicable, notifies OCC in writing that it objects to the proposed rule change the operation of the extension, waiver or suspension would be discontinued.

(ii) Statutory Basis for the Proposed Rule Change

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[6] and the rules and regulations thereunder because by enhancing OCC's ability to more immediately and effectively address emergency situations through waiver or suspension of its Rules, or extension of any time periods fixed thereby, in a manner consistent with the capabilities of other registered clearing agencies that perform comparable services it would help ensure that OCC's rules are designed to promote the prompt and accurate clearance and settlement of securities transactions and foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. In addition, OCC believes that the proposed rule change is consistent with Rule 17Ad–22(d)(1)[7] because including these emergency capabilities in OCC's By-Laws would help ensure that OCC maintains a well-founded, transparent, and enforceable legal framework. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[8] With respect to any burden on competition among clearing agencies, OCC is the only registered clearing agency that performs central counterparty services for the equity options markets.

Changes to the rules of a clearing agency may have an impact on the participants in a clearing agency and the markets that the clearing agency serves. This proposed rule change primarily affects clearing members with respect to their obligation to abide by all provisions of OCC's By-Laws and Rules and all procedures adopted pursuant thereto[9] in that OCC would have authority in an emergency to waive or suspend such provisions, or extend any time fixed thereby for the doing of any act or acts, if it is necessary or advisable for the protection of OCC or would otherwise be in the public interest in order for OCC to continue to facilitate the prompt and accurate clearance and settlement of confirmed trades or other transactions and to provide its services in a safe and sound manner. OCC believes that the proposed authority would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user because the authority would apply equally to all of OCC's Rules and clearing members. While any actual emergency extension, waiver or suspension could ultimately result in certain advantages or disadvantages for a particular subset of clearing members, OCC's authority in this regard could only be exercised where OCC believes it is necessary or advisable for the protection of OCC or is otherwise in the public interest in order for OCC to facilitate prompt and accurate clearance and settlement or for the safety and soundness of its clearing functions.

Predicating OCC's emergency authority on these conditions directly serves the purposes of the Act relevant to OCC because it would help ensure that any emergency action taken by OCC would be consistent with Congress' finding in Section 17A of the Act that promoting prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities and funds related thereto, is necessary for the protection of investors and persons facilitating transactions by and acting on behalf of investors.[10] In this way, OCC's proposed framework for any such emergency action would be designed to promote the national system for clearance and settlement and serve the larger interest of all clearing members in OCC's continuing ability to operate in a safe and sound manner. With respect to any burden on competition that might result from a particular extension, waiver or suspension in an emergency circumstance, the proposed framework would also facilitate ongoing regulatory oversight of any emergency action by limiting the initial effectiveness to thirty days and requiring OCC to provide prompt notice to regulators of material aspects of the emergency action together with the reasons therefor. In addition, the SEC and/or CFTC staff, as applicable, would have the ability to immediately discontinue the effectiveness of any emergency action through delivery of a written objection to OCC.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impose a burden on competition that is unnecessary or inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the 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–OCC–2013–23 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.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 240.17Ad–22(d)(1).

[8] 15 U.S.C. 78q–1(b)(3)(I).

[9] OCC By-Laws Article V, Section 3.

[10] 15 U.S.C. 78q–1(a)(1)(A).

All submissions should refer to File Number SR–OCC–2013–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method of submission. 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 Section, 100 F Street NE., Washington, DC 20549–1090, 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 OCC and on OCC's Web site at *http://www.optionsclearing.com/components/docs/legal/rules_and_bylaws/sr_occ_13_23.pdf* and at *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_13_23_a1.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–OCC–2013–23 and should be submitted on or before February 5, 2014.

For the Commission by the Division of Trading and Markets, pursuant to delegated Authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00578 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71272; File No. SR–FINRA–2013–056]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rule 2251 (Forwarding of Proxy and Other Issuer-Related Materials), Which Includes Fees for Processing and Forwarding Proxy and Other Issuer Communications to Beneficial Owners, and Establish a Fee Under Certain Conditions for an Enhanced Brokers' Internet Platform

January 9, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act,'' ''SEA'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on December 30, 2013, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by 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

FINRA is proposing to amend the provisions of FINRA Rule 2251 (Forwarding of Proxy and Other Issuer-Related Materials) relating to rates of reimbursement for expenses incurred in forwarding proxy and other issuer-related material, to establish a five-year fee for the development of an enhanced brokers internet platform and to make miscellaneous conforming revisions.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA Rule 2251 requires FINRA members to transmit proxy materials and other communications to beneficial owners of securities and limits the circumstances in which FINRA members may vote proxies without instructions from those beneficial owners.[4] The Supplementary Material under FINRA Rule 2251 (FINRA Rule 2251.01) sets forth the rate reimbursement provisions pursuant to which FINRA members are entitled to receive fees in connection with the rule's forwarding obligations. FINRA has previously indicated that, in the interest of ensuring regulatory clarity and harmonization with respect to proxy rate reimbursement, it intends to conform the rate reimbursement provisions of FINRA Rule 2251 with the New York Stock Exchange (''NYSE'') provisions in this area.[5]

On February 1, 2013, NYSE filed with the Commission a proposed rule change[6] to amend the provisions set forth under NYSE Rules 451 and 465, and the related provisions of Section 402.10 of the NYSE Listed Company Manual, for the reimbursement of expenses by issuers to NYSE member organizations for the processing and transmission of proxy materials and

[4] FINRA Rule 2251 was adopted as a consolidation of former NASD Rule 2260 and IM–2260 as part of FINRA's rulebook consolidation process. *See* Securities Exchange Act Release No. 61052 (November 23, 2009), 74 FR 62857 (December 1, 2009) (Order Granting Approval of Proposed Rule Change; File No. SR–FINRA–2009–066).

[5] *See* Securities Exchange Act Release No. 47392 (February 21, 2003), 68 FR 9730 (February 28, 2003) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–NASD–2003–019).

[6] *See* Securities Exchange Act Release No. 68936 (February 15, 2013), 78 FR 12381 (February 22, 2013) (Notice of Filing of Proposed Rule Change; File No. SR–NYSE–2013–07).

other issuer communications, and to establish a specified success fee for the development of qualified internet platforms for proxy voting purposes (the ''Enhanced Brokers' Internet Platform'' or ''EBIP''). The SEC approved NYSE's proposed rule change on October 18, 2013 (for purposes of this filing, referred to as the ''new NYSE proxy rate rules'').[7] Consistent with the NYSE action, FINRA is proposing to amend FINRA Rule 2251 to establish, in language virtually identical to the corresponding provisions under the new NYSE proxy rate rules, the same rate reimbursement provisions that have been adopted by the NYSE, including the specified success fee for the development of EBIPs, and to delete the provisions under FINRA Rule 2251 that are rendered obsolete by the NYSE rule change, as described below.

• *Processing Unit Fees:* Proposed FINRA Rule 2251.01(a)(1)(B)[8] establishes, for each set of proxy material, *i.e.,* proxy statement, form of proxy and annual report when processed as a unit, a Processing Unit Fee based on the following schedule according to the number of nominee[9] accounts through which the issuer's securities are beneficially owned:

• 50 cents for each account up to 10,000 accounts;

• 47 cents for each account above 10,000 accounts, up to 100,000 accounts;

• 39 cents for each account above 100,000 accounts, up to 300,000 accounts;

• 34 cents for each account above 300,000 accounts, up to 500,000 accounts;

• 32 cents for each account above 500,000 accounts.

The proposed rule change provides that, under the above schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers. The proposed rule change provides that references in the Supplementary Material to the number of accounts means the number of accounts holding securities of the issuer at any nominee that is providing distribution services without the services of an intermediary, or when an intermediary[10] is involved, the aggregate number of nominee accounts with beneficial ownership in the issuer served by the intermediary. Further, the proposed rule change provides that, in the case of a meeting for which an opposition proxy has been furnished to security holders, the Processing Unit Fee shall be $1.00 per account, in lieu of the fees in the above schedule.

• *Intermediaries:* Proposed FINRA Rule 2251.01(a)(1)(C)[11] establishes the following supplemental fees for intermediaries:

• $22.00 for each nominee served by the intermediary that has at least one account beneficially owning shares in the issuer;

• an Intermediary Unit Fee for each set of proxy material, based on the following schedule according to the number of nominee accounts through which the issuer's securities are beneficially owned:

• 14 cents for each account up to 10,000 accounts;

• 13 cents for each account above 10,000 accounts, up to 100,000 accounts;

• 11 cents for each account above 100,000 accounts, up to 300,000 accounts;

• 9 cents for each account above 300,000 accounts, up to 500,000 accounts;

• 7 cents for each account above 500,000 accounts.

The proposed rule change provides that, under the above schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers. For special meetings, the proposed rule change provides that the Intermediary Unit Fee shall be based on the following schedule, in lieu of the fees described in the schedule above:

• 19 cents for each account up to 10,000 accounts;

• 18 cents for each account above 10,000 accounts, up to 100,000 accounts;

• 16 cents for each account above 100,000 accounts, up to 300,000 accounts;

• 14 cents for each account above 300,000 accounts, up to 500,000 accounts;

• 12 cents for each account above 500,000 accounts.

The proposed rule change provides that, under the above schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers. For purposes of the proposed rule, a special meeting is a meeting other than the issuer's meeting for the election of directors. Further, the proposed rule change provides that, in the case of a meeting for which an opposition proxy has been furnished to security holders, the Intermediary Unit Fee shall be 25 cents per account, with a minimum fee of $5,000 per soliciting entity, in lieu of the fees described in the two schedules given in this paragraph above, as the case may be. Where there are separate solicitations by management and an opponent, the opponent is to be separately billed for the costs of its solicitation.

• *Proxy Follow-up Material:* The proposed rule change revises FINRA Rule 2251.01(a)(2)[12] (Charges for Proxy Follow-Up Mailings) to establish, for each set of proxy follow-up material, a Processing Unit Fee of 40 cents per account, except for those relating to an issuer's annual meeting for the election of directors, for which the Processing Unit Fee shall be 20 cents per account. The proposed rule change revises the header of FINRA Rule 2251.01(a)(2) to read ''Charges for Proxy Follow-Up Material'' and deletes the current text under that rule provision.

• *Beneficial Ownership Information:* Current FINRA Rule 2251.01(a)(3)[13] (Charge for Providing Beneficial Ownership Information) establishes a rate of six and one-half cents per name of non-objecting beneficial owner (''NOBO'') provided to the issuer pursuant to the issuer's request. The proposed rule change revises Rule 2251.01(a)(3) to provide that, where the non-objecting beneficial ownership information is not furnished directly to the issuer by the member, but is furnished through an agent designated by the member, the issuer will be expected to pay in addition the

[7] *See* Securities Exchange Act Release No. 70720 (October 18, 2013), 78 FR 63530 (October 24, 2013) (Order Granting Approval of Proposed Rule Change; File No. SR–NYSE–2013–07) (the ''Approval Order'').

[8] Proposed FINRA Rule 2251.01(a)(1)(B) corresponds to NYSE Rule 451.90(1)(b).

[9] Proposed FINRA Rule 2251.01(a)(1)(A)(i) defines ''nominee'' to mean a broker or bank subject to SEA Rule 14b–1 or Rule 14b–2, respectively. This provision corresponds with NYSE Rule 451.90(1)(a)(i). The new rule, in combination with proposed new FINRA Rule 2251.01(a)(1)(A)(ii) as set forth in note 10 below, replaces current FINRA Rule 2251.01(a)(1)(A) [sic]. The Commission notes that it is proposed FINRA Rule 2251.01(a)(1)(B)(i) that replaces current FINRA Rule 2251.01(a)(1)(A) and current FINRA Rule 2251 does not define ''nominee.''

[10] Proposed FINRA Rule 2251.01(a)(1)(A)(ii) defines ''intermediary'' to mean a proxy service provider that coordinates the distribution of proxy or other materials for multiple nominees. This provision corresponds to NYSE Rule 451.90(1)(a)(ii).

[11] Proposed FINRA Rule 2251.01(a)(1)(C) corresponds to NYSE Rule 451.90(1)(c).

[12] FINRA Rule 2251.01(a)(2), as revised by the proposed rule change, corresponds to NYSE Rule 451.90(2).

[13] FINRA Rule 2251.01(a)(3), as revised by the proposed rule change, corresponds to NYSE Rule 451.92.

following fee to the agent, with a minimum fee of $100 per requested list:

• 10 cents per name for the first 10,000 names or portion thereof;

• 5 cents per name for additional names up to 100,000 names; and

• 4 cents per name above 100,000.

The rule currently provides that any member that designates an agent for the purpose of furnishing requesting issuers with beneficial ownership information pursuant to SEA Rule 14b-1(c) and thereafter cancels that designation or appoints a new agent for such purpose should promptly inform interested issuers. The proposed rule change retains this language and provides that, when an issuer requests beneficial ownership information as of a date which is the record date for an annual or special meeting or a solicitation of written shareholder consent, the issuer may ask to eliminate names holding more or less than a specified number of shares, or names of shareholders that have already voted, and the issuer may not be charged a fee for the NOBO names so eliminated. In all other cases the issuer may be charged for all the names in the NOBO list.

• *Interim Report, Post Meeting Report and Other Material:* The proposed rule change revises FINRA Rule 2251.01(a)(4) [14] (Charges for Interim Report, Post Meeting Report and Other Material Mailings) to establish for interim reports, annual reports if processed separately, post meeting reports, or other material, a Processing Unit Fee of 15 cents per account. The proposed rule change revises the header of FINRA Rule 2251.01(a)(4) to read ''Charges for Interim Report, Post Meeting Report and Other Material.''

• *Preference Management Fees:* The proposed rule change deletes the current text under FINRA Rule 2251.01(a)(5) [15] (Incentive Fees) and establishes, with respect to each account for which the nominee has eliminated the need to send materials in paper format through the mails (or by courier service), a Preference Management Fee in the following amount:

• 32 cents for each set of proxy material described in proposed FINRA Rule 2251.01(a)(1)(B); provided, however, that if the account is a Managed Account (as defined in proposed FINRA Rule 2251.01(a)(7), below), the Preference Management Fee shall be 16 cents.

• 10 cents for each set of material described in either FINRA Rule 2251.01(a)(2) or (a)(4), as discussed above.

The proposed rule change provides that the Preference Management Fee is in addition to, and not in lieu of, the other fees set forth under FINRA Rule 2251.01 as revised by the rule change. The proposed rule change revises the header of FINRA Rule 2251.01(a)(5) to read ''Preference Management Fees.''

• *Notice and Access Fees:* Proposed FINRA Rule 2251.01(a)(6) [16] (Notice and Access Fees) provides that, when an issuer elects to utilize Notice and Access for a proxy distribution, there is an incremental fee based on all nominee accounts through which the issuer's securities are beneficially owned as follows:

• 25 cents for each account up to 10,000 accounts;

• 20 cents for each account over 10,000 accounts, up to 100,000 accounts;

• 15 cents for each account over 100,000 accounts, up to 200,000 accounts;

• 10 cents for each account over 200,000 accounts, up to 500,000 accounts;

• 5 cents for each account over 500,000 accounts.

The proposed rule change provides that, under the above schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers. The proposed rule change further provides that follow up notices will not incur an incremental fee for Notice and Access. In addition, no incremental fee will be imposed for fulfillment transactions (*i.e.,* a full package sent to a notice recipient at the recipient's request), although out of pocket costs such as postage will be passed on as in ordinary distributions.

• *Managed Accounts:* Proposed FINRA Rule 2251.01(a)(7) [17] (Fee Exclusion in Certain Circumstances) provides that, notwithstanding any other provision under the rule, no fee shall be imposed for a nominee account that is a Managed Account and contains five or fewer shares or units of the security involved. The proposed rule defines ''Managed Account'' to mean an account at a nominee which is invested in a portfolio of securities selected by a professional adviser, and for which the account holder is charged a separate asset-based fee for a range of services which may include ongoing advice, custody and execution services. The adviser can be either employed by or affiliated with the nominee, or a separate investment advisor contracted for the purpose of selecting investment portfolios for the managed account. Requiring that investments or changes to the account be approved by the client shall not preclude an account from being a ''Managed Account,'' nor shall the fact that commissions or transaction-based charges are imposed in addition to the asset-based fee. Proposed FINRA Rule 2251.01(a)(7) further provides that, notwithstanding any other provision under the rule, no fee shall be imposed for any nominee account which contains only a fractional share, *i.e.,* less than one share or unit of the security involved.

• *EBIP Fee:* Proposed FINRA Rule 2251.01(a)(8) [18] (Enhanced Brokers' Internet Platform Fee) provides that, during the period ending December 31, 2018, there shall be a supplemental fee of 99 cents for each new account that elects, and each full package recipient among a brokerage firm's accounts that converts to, electronic delivery while having access to an EBIP. The proposed rule change provides that this fee does not apply to electronic delivery consents captured by issuers (for example, through an open-enrollment program), nor to positions held in Managed Accounts (as defined in proposed FINRA Rule 2251.01(a)(7)) nor to accounts voted by investment managers using electronic voting platforms.[19] The proposed rule change provides that this is a one-time fee, meaning that an issuer may be billed this fee by a particular member only once for each account covered by this rule. Further, billing for this fee should be separately indicated on the issuer's invoice and must await the next proxy or consent solicitation by the issuer that follows the triggering election of electronic delivery by an eligible account. Accounts receiving a notice pursuant to the use of notice and access by the issuer, and accounts to which mailing is suppressed by householding, will not trigger the fee under the proposed rule change. The proposed rule change further provides:

• To qualify under the rule, an EBIP must provide notices of upcoming corporate votes (including record and shareholder meeting dates) and the

[14] FINRA Rule 2251.01(a)(4), as revised by the proposed rule change, corresponds to NYSE Rule 451.90(3).

[15] FINRA Rule 2251.01(a)(5), as revised by the proposed rule change, corresponds to NYSE Rule 451.90(4).

[16] Proposed FINRA Rule 2251.01(a)(6) corresponds to NYSE Rule 451.90(5).

[17] Proposed FINRA Rule 2251.01(a)(7) corresponds to NYSE Rule 451.90(6).

[18] Proposed FINRA Rule 2251.01(a)(8) corresponds to NYSE Rule 451.90(7).

[19] FINRA notes that the EBIP fee does not apply to accounts that converted to electronic delivery prior to January 1, 2014.

ability to access proxy materials and a voting instruction form, and cast the vote, through the investor's account page on the member's Web site without an additional log-in.

• Any member that is not also a member of the NYSE with a qualifying EBIP must provide notice thereof to FINRA,[20] including the date such EBIP became operational, and any limitations on the availability of the EBIP to its customers.

• Conversions to electronic delivery by accounts with access to an EBIP need to be tracked for the purpose of reporting the activity to FINRA when requested, as do records of marketing efforts to encourage account holders to use the EBIP. In addition, records need to be maintained and reported to FINRA when requested regarding the proportion of non-institutional accounts that vote proxies after being provided access to an EBIP.

• *Miscellaneous Revisions:* The proposed rule change revises the header of FINRA Rule 2251.01(a)(1) to read ''Basic Processing and Intermediary Unit Fees.'' To reflect the use of the term ''process'' throughout the new NYSE proxy rate rules, the proposed rule change revises ''forward,'' ''forwarding'' and ''transmit'' throughout FINRA Rule 2251 to read ''process and forward,'' ''processing and forwarding'' and ''process and transmit,'' respectively.

FINRA notes that the guidance applicable to the new NYSE proxy rate rules as set forth in the Commission's Approval Order shall apply to Rule 2251 as revised by the proposed rule change.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change on January 1, 2014.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[21] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that, by conforming the rate reimbursement provisions under FINRA Rule 2251 with the new NYSE proxy rate rules, the proposed rule change helps to ensure regulatory clarity and harmonization with respect to proxy rate reimbursement, thereby facilitating the processing and transmittal of proxy and other issuer-related materials to investors and conducing to the orderly administration of the Commission's proxy rules. Further, for the reasons set forth in the Approval Order, the Commission found that the new NYSE proxy rate rules are consistent with the requirements of Section 6(b)(4),[22] Section 6(b)(5)[23] and Section 6(b)(8)[24] of the Act. Because the proposed rule change conforms with the new NYSE proxy rate rules, FINRA believes that the proposed rule change is consistent with the corresponding provisions under Section 15A(b)(5),[25] Section 15A(b)(6)[26] and Section 15A(b)(9)[27] of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA believes that, by conforming the rate reimbursement provisions under FINRA Rule 2251 with the new NYSE proxy rate rules, the proposed rule change helps to ensure regulatory clarity and harmonization with respect to proxy rate reimbursement. FINRA believes that this will help FINRA members avoid conflicting requirements and related burdens that would otherwise result in the absence of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[28] and Rule 19b–4(f)(6) thereunder.[29]

A proposed rule change filed under Rule 19b–4(f)(6)[30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay so FINRA can implement the proposed rule change on January 1, 2014, in alignment with the implementation date of the new NYSE proxy rate rules. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow FINRA to harmonize its rules with the new NYSE proxy rate rules, which should reduce the potential for investor confusion regarding the applicable proxy fees. Therefore, the Commission hereby waives the 30-day operative delay and

[20] Under the new NYSE proxy rate rules, the notification applies to NYSE member organizations as to the NYSE. To avoid regulatory duplication, the proposed rule change applies the EBIP notification requirement only to FINRA members that are not NYSE members. However, as noted below, all FINRA members would need to maintain, and would be subject to requests by FINRA for, the specified EBIP tracking information and records.

[21] 15 U.S.C. 78*o*–3(b)(6).

[22] 15 U.S.C. 78f(b)(4). Section 6(b)(4) requires that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members, issuers and other persons using its facilities.

[23] 15 U.S.C. 78f(b)(5). Section 6(b)(5) requires that the rules of an exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

[24] 15 U.S.C. 78f(b)(8). Section 6(b)(8) prohibits any exchange rule from imposing any burden on competition that is not necessary or appropriate in furtherance of the Act.

[25] 15 U.S.C. 78*o*–3(b)(5). Section 15A(b)(5) requires that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. Relatedly, SEA Rule 14b–1 conditions a broker-dealer's obligation to forward issuer proxy materials to beneficial owners on the issuer's assurance that it will reimburse the broker-dealer's reasonable expenses, both direct and indirect, incurred in connection with performing that obligation. *See* 17 CFR 240.14b–1.

[26] 15 U.S.C. 78*o*–3(b)(6).

[27] 15 U.S.C. 78*o*–3(b)(9).

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

designates the proposal operative upon filing.[32]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2013–056 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–FINRA–2013–056. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2013–056 and should be submitted on or before February 5, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00581 Filed 1–14–14; 8:45 am]

BILLING CODE 8011–01–P

[32] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[33] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13827 and #13828]

Nebraska Disaster Number NE–00055

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Nebraska (FEMA—4156—DR), dated 11/26/2013.

Incident: Severe Storms, Winter Storms, Tornadoes, and Flooding

Incident Period: 10/02/2013 through 10/06/2013

Effective Date: 01/07/2014

Physical Loan Application Deadline Date: 01/27/2014

Economic Injury (EIDL) Loan Application Deadline Date: 08/25/2014

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 Private Non-Profit organizations in the State of NEBRASKA, dated 11/26/2013, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Greeley.

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. 2014–00557 Filed 1–14–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13841 and #13842]

Arkansas Disaster #AR–00066

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Arkansas (FEMA—4160—DR), dated 01/06/2014.

Incident: Severe Winter Storm

Incident Period: 12/05/2013 through 12/06/2013

Effective Date: 01/06/2014

Physical Loan Application Deadline Date: 03/07/2014

Economic Injury (EIDL) Loan Application Deadline Date: 10/06/2014

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: Notice is hereby given that as a result of the President's major disaster declaration on 01/06/2014, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Polk, Scott, Searcy, Sebastian, Sharp, Van Buren.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.625

	Percent
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 13841B and for economic injury is 13842B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2014–00555 Filed 1–14–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8595]

Culturally Significant Objects Imported for Exhibition Determinations: ''Italian Futurism, 1909–1944: Reconstructing the Universe''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Italian Futurism, 1909–1944: Reconstructing the Universe,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Solomon R. Guggenheim Museum, New York, NY, from on or about February 21, 2014, until on or about September 1, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: January 9, 2014.

Evan M. Ryan,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–00629 Filed 1–14–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8594]

Determination by the Secretary of State Relating to Iran Sanctions

AGENCY: Department of State

This notice is to inform the public that the Secretary of State determined, on November 29, 2013, pursuant to Section 1245(d)(4)(D) of the National Defense Authorization Act for Fiscal Year 2012 (NDAA) (Pub. L. 112–81), as amended by the Iran Threat Reduction and Syria Human Rights Act (Pub. L. 112–158), that as of November 29, 2013, each of the following importers of oil from Iran has qualified for the 180-day exception outlined in section 1245(d)(4)(D): India, Malaysia, the People's Republic of China, the Republic of Korea, Singapore, South Africa, Sri Lanka, Taiwan, and Turkey. The Secretary of State last made exception determinations under Section 1245(d)(4)(D) of the NDAA regarding these importers on June 5, 2013.

FOR FURTHER INFORMATION CONTACT: Carlos Pascual, Special Envoy and Coordinator, Bureau of Energy Resources, (202) 647–8543.

Carlos Pascual,

Bureau of Energy Resources, Department of State.

[FR Doc. 2014–00628 Filed 1–14–14; 8:45 am]

BILLING CODE 4710–02–P

DEPARTMENT OF STATE

[Public Notice 8593]

Presidential Determination Relating to Iran Sanctions

AGENCY: Department of State.

This notice is to inform the public that the President of the United States determined, on November 29, 2013, pursuant to Section 1245(d)(4)(B) and (C) of the National Defense Authorization Act for Fiscal Year 2012, Public Law 112–81, and consistent with his prior determinations, that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran by or through foreign financial institutions.

FOR FURTHER INFORMATION CONTACT: Carlos Pascual, Special Envoy and Coordinator, Bureau of Energy Resources, (202) 647–8543.

Carlos Pascual,

Bureau of Energy Resources, Department of State.

[FR Doc. 2014–00626 Filed 1–14–14; 8:45 am]

BILLING CODE 4710–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twenty Fourth Meeting: RTCA Special Committee 213, Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS)

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

ACTION: Meeting notice of RTCA Special Committee 213, Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS).

SUMMARY: The FAA is issuing this notice to advise the public of the twenty fourth meeting of the RTCA Special Committee 213, Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS).

DATES: The meeting will be held February 4–6, 2013 from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at Hilton Pensacola Beach Gulf Front, 12 Via de Luna Drive, Pensacola Beach, FL 32561, Coral Reef Conference Room.

FOR FURTHER INFORMATION CONTACT: Tim Etherington, *tjetheri@rockwellcollins.com,* (319) 295–5233, Patrick Krohn, pkrohn@uasc.com, (425) 602–1375 and The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 330–0652/(202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.* Additional contact information: please contact Patrick Krohn, *pkrohn@uasc.com,* telephone (425) 602–1375 or mobile at (425) 829–1996. RTCA contact is Jennifer Iverson, *jiverson@rtca.org,* (202) 330–0662.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 213. The agenda will include the following:

Tuesday, February 4

Plenary Discussion (sign in at 9:00 a.m.)

- Introductions and administrative items
- Review and approve minutes from last full plenary meeting
- Review of terms of reference
- Status of DO–342A and DO–315C Drafts
- Industry updates
- DO–315C and DO–342A draft review

Wednesday, February 5

Plenary Discussion

- WG–1 DO–315C draft review
- WG–2 DO–342A draft review

Thursday, February 6

Plenary Discussion

- WG–1 DO–315C draft review
- WG–1 DO–342A draft review
- Administrative items
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting.

Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 9, 2014.

Paige Williams,

Management Analyst, NextGen, Business Operations Groupm Federal Aviation Administration.

[FR Doc. 2014–00617 Filed 1–14–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fourth Meeting: RTCA Tactical Operations Committee (TOC)

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

ACTION: Fourth meeting notice of RTCA Tactical Operations Committee.

SUMMARY: The FAA is issuing this notice to advise the public of the second meeting of the RTCA Tactical Operations Committee.

DATES: The meeting will be held February 6, 2014 from 10:00 a.m.–3:00 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.* Andy Cebula, NAC Secretary can also be contacted at *acebula@rtca.org* or 202–330–0652.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 224. The agenda will include the following:

February 6

- Opening of Meeting/Introduction of TOC Members—Co-Chairs Mr. Jim Bowman, FedEx Express, and Mr. Dale Wright, National Air Traffic Controllers Association (NATCA)
- Official Statement of Designated Federal Official—Ms. Elizabeth Ray, FAA Air Traffic Organization, Vice President Mission Support
- Approval of November 7, 2013 Meeting Summary
- FAA Report
- Notice to Airmen (NOTAM) Criteria and Metrics
  - Recommendation covering success criteria and compliance metrics to evaluate the FAA NOTAM Modernization initiative and comply with the Pilot's Bill of Rights.
- Visual Area Surface 20:1 Obstacle Clearance
  - Recommendation related to the FAA November 2013 Memorandum, ''Mitigation of obstructions within the 20:1 Visual Area Surface.''
- VHF Omni-directional Range (VOR) Minimum Operating Network
  - Interim Report ranking and applying selection criteria to VOR MON list and identifying exceptions.
- Regional Task Groups (RTGs)
  - Discussion of specific Taskings for Regional Task Groups.
- NextGen Advisory Committee (NAC)
  - Report on current activities underway by the NAC.
- Anticipated Issues for TOC consideration and action at the next meeting.
- Other business
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting.

Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 9, 2014.

Paige Williams,

Management Analyst, NextGen, Business Operations Group, Federal Aviation Administration.

[FR Doc. 2014–00620 Filed 1–14–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Final Federal Agency Actions on Proposed Highway in California; Limitation on Claims for Judicial Review of Actions by the California Department of Transportation

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA, on behalf of the California Department of Transportation (Caltrans), is issuing this notice to announce actions taken by Caltrans that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed highway project on the State Routes (SR) 57/60 (57[post miles R4.3/R4.5 & R4.5/R4.8] 60[post miles R23.3/R26.5]) Confluence at Grand Avenue project in the County of Los Angeles, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before July 14, 2014. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Agustin Barajas, Associate Environmental Planner Caltrans, District 7, Division of Environmental Planning, 100 South Main Street, Suite 100, 7 a.m.–4:45 p.m. (Pacific Time), Los Angeles, CA 90012–3712, (213) 897–7665, *agustin.barajas@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed environmental responsibilities for this project pursuant to 23 U.S.C. 327.

Notice is hereby given that the Caltrans, have taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California:

Caltrans proposes to make improvements to SR–57/60 Confluence at Grand Avenue interchange, which is located between the Cities of Industry and Diamond Bar in Los Angeles County. The project consists of the reconfiguration of the approximately 2.5-mile confluence of SR–57 and SR–60, which includes the addition of auxiliary lanes and associated on-ramp/off-ramp reconfiguration. The purpose of the project is to improve safety and operational deficiencies at the Grand Avenue interchange. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Finding of No Significant Impact (FONSI) for the project, approved on December 11, 2013. The FONSI and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans FONSI can be viewed and downloaded from the project Web site at: *http://www.dot.ca.gov/dist07/resources/envdocs/.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

- General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal Aid Highway Act; [23 U.S.C. 109]
- Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303 and U.S.C. 138]
- Air: Clean Air Act [42 U.S.C. 7401–7671(q)]
- Migratory Bird Treaty Act [16 U.S.C. 703–712]
- Historic and Cultural Resources: Section 106 of the National historic Preservation Acct of 1966, as amended [16 U.S.C. 470(aa)–11].
- Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; The Uniform Relocation Assistance Act and Real Property Acquisition Policies Act of 1970, as amended.
- Hazardous Materials: Comprehensive Environmental response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675; Superfund Amendments and Reauthorization Act of 1986 (SARA);
- Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: January 9, 2014.

Cesar E. Perez,

Senior Transportation Engineer, Federal Highway Administration, Sacramento, California.

[FR Doc. 2014–00599 Filed 1–14–14; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0167]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 24 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective January 15, 2014. The exemptions expire on January 15, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202)–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

Background

On October 28, 2013, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (78 FR 64271). That notice listed 24 applicants' case histories. The 24 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 24 applications on their merits and made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least

20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 24 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including traumatic corneal necrosis, macular hole, amblyopia, prosthetic eye, central retinal vein occlusion, retinal detachment, mature mixed cataract, central opacity, optic neuropathy, complete loss of vision, refractive amblyopia, and vascular occlusion. In most cases, their eye conditions were not recently developed. Seventeen of the applicants were either born with their vision impairments or have had them since childhood.

The seven individuals that sustained their vision conditions as adults have had it for a period of 1 to 23 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 24 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 1 to 33 years. In the past 3 years, two of the drivers were involved in crashes and three were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the October 28, 2013 notice (78 FR 64271).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 24 applicants, two of the drivers were involved in crashes and three were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in

interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 24 applicants listed in the notice of October 28, 2013 (78 FR 64271).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 24 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received no comments in this proceeding.

Conclusion

Based upon its evaluation of the 24 exemption applications, FMCSA exempts Larry Adams, Jr. (FL), Juan R. Andrade (TX), Ronald C. Ashley (GA), Michael A. Bagwell (TX), Lester E. Burnes (NM), Miguel A. Calderon (CA), Terry L. Cliffe (IL), Herman R. Dahmer, Jr. (MD), Andrew S. Durward (IL), James P. Fitzgerald (MA), Vashion E. Hammond (FL), Louis E. Henry, Jr. (KY), Adam S. Larson (CO), Sally A. Leavitt (NV), Glenn H. Lewis, Jr. (OH), Leonardo Lopez (NE), Larry P. Magrath (MN), Gilberto D. Miramontes (TX), Richard J. Pauxtis (OR), Johnny L. Powell (MD), Jacques W. Rainville (VT), Jeffrey T. Skaggs (IA), Roy A. Whitaker (TX), and Sammy D. Wynn (GA) from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: December 30, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–00442 Filed 1–14–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Notice and Request for Comments

AGENCY: Surface Transportation Board, DOT.

ACTION: 30-day notice of request for approval: Report of Fuel Cost, Consumption, and Surcharge Revenue.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3519 (PRA), the Surface Transportation Board (Board) gives notice that it is requesting from the Office of Management and Budget (OMB) approval of the information collection—Report of Fuel Cost, Consumption, and Surcharge Revenue—further described below. The Board previously published a notice about this collection in the **Federal Register** on June 24, 2013, at 78 FR 37883. That notice allowed for a 60-day public review and comment period. One comment was received and is addressed in the Board's Supporting Statement, which was submitted to OMB as part of the Board's request for approval of this collection under the Paperwork Reduction Act. The Board's request to OMB can be viewed on OMB's Web site at *http://www.reginfo.gov/public/do/PRAMain.*

Comments may now be submitted to OMB concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility.

Description of Collection

Title: Report of Fuel Cost, Consumption, and Surcharge Revenue.

OMB Control Number: 2140–0014.

STB Form Number: None.

Type of Review: Extension without change.

Respondents: Class I railroads (railroads with operating revenues exceeding $250 million in 1991 dollars).

Number of Respondents: 7.

Estimated Time per Response: 1 hour.

Frequency: Quarterly.

Total Burden Hours (annually including all respondents): 28 hours.

Total ''Non-hour Burden'' Cost: None identified.

Needs and Uses: Under 49 U.S.C. 10702, the Surface Transportation Board has the authority to address the reasonableness of a rail carrier's practices. This information collection permits the Board to monitor the current fuel surcharge practices of the Class I carriers. Failure to collect this information would impede the Board's ability to fulfill its responsibilities under 49 U.S.C. 10702. The Board has authority to collect information about rail costs and revenues under 49 U.S.C. 11144 and 11145.

Retention Period: Information in this report is maintained on the Board's Web site for a minimum of one year and is otherwise maintained by the Board for a minimum of two years.

DATES: Comments on this information collection should be submitted by February 14, 2014.

ADDRESSES: Written comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Patrick Fuchs, Surface Transportation Board Desk Officer, by fax at (202) 395–5167; by mail at OMB, Room 10235, 725 17th Street NW., Washington, DC 20500; or by email at *OIRA—submission@omb.eop.gov* and refer to the title of the collection(s) commented upon. For further information regarding the Report of Fuel Cost, Consumption, and Surcharge Revenue, or to obtain a copy

of the reporting form, contact Paul Aguiar at (202) 245–0323 or *economic.data@stb.dot.gov.* [Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.] The form is also available on the Board's Web site.

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR1320.3(c), includes agency requirements or requests that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: January 10, 2014.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–00607 Filed 1–14–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request

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)).

DATES: Written comments should be received on or before March 17, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. 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: To obtain additional information, or copies of the information collection and instructions, or copies of any comments received, contact Elaine Christophe, at (202) 622–3179, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Elaine.H.Christophe@irs.gov*.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and the Internal Revenue Service, as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to take this opportunity to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*).

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has 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 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 the requested information.

Currently, the IRS is seeking comments concerning the following forms, and reporting and record-keeping requirements:

Title: Treatment of Dual Consolidated Losses.

OMB Number: 1545–1083.

Regulation Project Number: INTL–399–88.

Abstract: Internal Revenue Code section 1503(d) denies use of the losses of one domestic corporation by another affiliated domestic corporation where the loss corporation is also subject to the income tax of another country. This regulation allows an affiliate to make use of the loss if the loss has not been used in the foreign country and if an agreement is attached to the income tax return of the dual resident corporation or group, to take the loss into income upon future use of the loss in the foreign country. The regulation also requires separate accounting for a dual consolidated loss where the dual resident corporation files a consolidated return.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 3 hrs., 14 minutes.

Estimated Total Annual Burden Hours: 1,620 minutes.

Title: State Housing Credit Ceiling and Other Rules Relating to the Low-Income Housing Credit.

OMB Number: 1545–1423.

Regulation Project Number: PS–106–91.

Abstract: The regulation concerns the low-income housing credit under section 42 of the Internal Revenue Code. The regulation provides rules relating to the order in which housing credit dollar amounts are allocated from each State's housing credit ceiling under section 42(h)(3)(C) and the determination of which States qualify to receive credit from a national pool of credit under section 42(h)(3)(D). The regulation affects State and local housing credit agencies and taxpayers receiving credit allocations, and provides them with guidance for complying with section 42.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, individuals or households, and state, local or tribal governments.

Estimated Number of Respondents: 110.

Estimated Time per Respondent: 2 hours, 30 minutes.

Estimated Total Annual Burden Hours: 275.

Title: Foreign Based Importer Non-Filers Questionnaire.

OMB Number: 1545–2084.

Form Number: N/A.

Abstract: Foreign corporations are subject to U.S. Income Tax on income that is effectively connected with a U.S.

trade or business and are required to file a U.S. Income tax return reporting taxable income. However, based on the public information available, it is not readily determinable without further research that U.S. Income Tax compliance has been fulfilled. Therefore, IDRS will be utilized to determine if filing compliance has been met. This contact letter is sent to taxpayers who appear to have a U.S. trade or business and have not filed a U.S. Income Tax return or filed a protective 1120F.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 90.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 30.

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.

Approved: January 9, 2014.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2014–00653 Filed 1–14–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, January 29, 2014.

FOR FURTHER INFORMATION CONTACT: Patricia Robb or Ellen Smiley at 1–888–912–1227 or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Wednesday, January 29, 2014, at 2 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Patricia Robb or Ellen Smiley. For more information please contact Patricia Robb or Ellen Smiley at 1–888–912–1227 or (414) 231–2360 or write: TAP Office, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221 or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: January 9, 2014.

Linda Rivera,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–00652 Filed 1–14–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0120]

Proposed Information Collection (Report of Treatment by Attending Physician) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension without change of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine claimants' eligibility for disability insurance benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 17, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0120'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Report of Treatment by Attending Physician, VA Form 29–551a.

OMB Control Number: 2900–0120.

Type of Review: Extension without change of a currently approved collection.

Abstract: VA Form 29–551a is used to collect information from attending physician to determine a claimant's eligibility for disability insurance benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 5,069 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 20,277.

Dated: January 10, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–00614 Filed 1–14–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0657]

Proposed Information Collection (Conflicting Interests Certification for Proprietary Schools Only) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to ensure State approving agency and VA employees do not own any interest in a proprietary profit school.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 17, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0657'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Conflicting Interests Certification for Proprietary Schools Only, VA Form 22–1919.

OMB Control Number: 2900–0657.

Type of Review: Revision of a currently approved collection.

Abstract: VA pays education benefits to veterans and other eligible person pursuing approved programs of education. Employees of VA and State approving agency enrolled in a proprietary profit school are prohibit from owning any interest in the school. Educational assistance provided to veterans or eligible person based on their enrollment in proprietary school and who are officials authorized to signed certificates of enrollment are also prohibit from receiving educational assistance based on their enrollment. Propriety schools officials complete VA Form 22–1919 certifying that the institution and enrollees do not have any conflict of interest.

Affected Public: Business or other for profit.

Estimated Annual Burden: 23 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 140.

Dated: January 10, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–00612 Filed 1–14–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0503]

Proposed Information Collection (Veterans Mortgage Life Insurance—Change of Address Statement); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension without change of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments for information needed to determine a veteran's continued entitlement to Veterans Mortgage Life Insurance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 17, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0503'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility;

(2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Veterans Mortgage Life Insurance—Change of Address Statement, VA Form 29–0563.

OMB Control Number: 2900–0503.

Type of Review: Extension without change of a currently approved collection.

Abstract: The data collected on VA Form 29–0563 will be used to inquire about a veteran's continued ownership of property issued under Veterans Mortgage Life Insurance when an address change for the veteran is received. VA uses the data collected to determine whether continued Veterans Mortgage Life Insurance coverage is applicable since the law granting this insurance provides that coverage terminates if the veteran no longer owns the property.

Affected Public: Individuals or households.

Estimated Annual Burden: 20 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 240.

Dated: January 10, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–00610 Filed 1–14–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0761]

Agency Information Collection (Health Eligibility Center (HEC) Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 14, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0761'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0761.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Health Eligibility Center (HEC) Correspondence Satisfaction Letter, FL 10–491.

b. Customer Modality Satisfaction Survey, VA Form 10–0151.

OMB Control Number: 2900–0761.

Type of Review: Revision of a currently approved collection

Abstract: The HEC goal is to respond to Veterans correspondence, addressing their concerns in a concise and understandable manner. The correspondence letter will allow Veterans an opportunity to provide anonymous feedback on how well the HEC addressed their concerns. HEC will use Veterans feedback to improve the correspondence process. The Customer Modality Survey will be used to focus on how VA employees assess the needs of Veterans and outline internal processes to improve services prior to Veterans receiving care such as preregistration support and claim processing.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 16, 2013, at pages 57001–57002.

Affected Public: Individuals and households.

Estimated Annual Burden:

a. VA FL 10–0151—11,551 hours.

b. VA Form 10–491—83,677 hours.

Estimated Average Burden per Respondent:

a. VA FL 10–0151—4.2 minutes.

b. VA Form 10–491—23 minutes.

Frequency of Response:

a. VA FL 10–0151—1.53 annual.

b. VA Form 10–491—1.9 annual.

Estimated Number of Respondents:

a. VA FL 10–0151—107,851.

b. VA Form 10–491—114,889.

Total Annual Responses:

a. VA FL 10–0151–165,012.

b. VA Form 10–491—218,289.

Dated: January 10, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–00587 Filed 1–14–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0161]

Proposed Information Collection (Medical Expense Report); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension without change of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to report medical expenses paid in connection with claims for pension and other income-based benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 17, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue

NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0161'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Medical Expense Report, VA Form 21–8416.

OMB Control Number: 2900–0161.

Type of Review: Extension without change of a currently approved collection.

Abstract: VA Form 21–8416 is completed by claimants in receipt of or claiming income-based benefits to report medical expenses paid. Unreimbursed medical expenses may be excluded as countable income in determining a claimant's entitlement to income-based benefits and the rate payable.

Affected Public: Individuals or households.

Estimated Annual Burden: 96,400 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On ocassion.

Estimated Number of Respondents: 48,200.

Dated: January 10, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–00616 Filed 1–14–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0115]

Proposed Information Collection (Supporting Statement Regarding Marriage); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine eligibility for benefits based on a common law marriage.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 17, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0115'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Supporting Statement Regarding Marriage, VA Form 21–4171.

OMB Control Number: 2900–0115.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected on VA Form 21–4171 is used to determine a claimant's eligibility for benefits based on a common law marital relationship. Benefits cannot be pay unless the marital relationship between the claimant and the veteran is established.

Affected Public: Individuals or households.

Estimated Annual Burden: 800 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 2,400.

Dated: January 10, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–00604 Filed 1–14–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0501]

Proposed Information Collection (Veterans Mortgage Life Insurance Inquiry); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension without change of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments for information needed to maintain

Veterans Mortgage Life Insurance accounts.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 17, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0501'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Veterans Mortgage Life Insurance Inquiry, VA Form 29–0543.

OMB Control Number: 2900–0501.

Type of Review: Extension without change of a currently approved collection.

Abstract: Veterans whose mortgage is insured under Veterans Mortgage Life Insurance (VMLI) completes VA Form 29–0543 to report any recent changes in the status of their mortgage. VMLI coverage is automatically terminated when the mortgage is paid in full or when the title to the property secured by the mortgage is no longer in the veteran's name.

Affected Public: Individuals or households.

Estimated Annual Burden: 45 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 540.

Dated: January 10, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–00601 Filed 1–14–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda; Republication

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations; Republication

Editorial Note: FR Doc. 2013–29649 originally published on pages 1281–1287 in the issue of Tuesday, January 7, 2014. Due to numerous errors, the preamble is being reprinted in its entirety.

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Deposit Insurance Corporation (''FDIC'') is hereby publishing items for the fall 2013 Unified Agenda of Federal Regulatory and Deregulatory Actions. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Robert E. Feldman, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

Final Rules

Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardize Approach for Risk-Weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule (3064–AD95)

The Federal Deposit Insurance Corporation (''FDIC'') is adopting an interim final rule that revises its risk-based and leverage capital requirements for FDIC-supervised institutions. This interim final rule is substantially identical to a joint final rule issued by the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System (together, with the FDIC, ''the agencies''). The interim final rule consolidates three separate notices of proposed rulemaking that the agencies jointly published in the **Federal Register** on August 30, 2012, with selected changes. The interim final rule implements a revised definition of regulatory capital, a new common equity tier 1 minimum capital requirement, higher minimum tier 1 capital requirement, and, for FDIC-supervised institutions subject to the advanced approaches risk-based capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator. The interim final rule incorporates these new requirements into the FDIC's prompt corrective action framework. In addition, the interim final rule establishes limits on FDIC-supervised institutions' capital distributions and certain discretionary bonus payments if the FDIC-supervised institution does not hold a specified amount of common equity tier 1 capital in addition to the amount necessary to meet its minimum risk-based capital requirements. The interim final rule amends the methodologies for determining risk-weighted assets for all FDIC-supervised institutions. The interim final rule also adopts changes to the FDIC's regulatory capital requirements that meet the requirements of section 171 and section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The interim final rule also codifies the FDIC's regulatory capital rules, which have previously resided in various appendices to their respective regulations, into a harmonized integrated regulatory framework.

Completed Actions

Recordkeeping Rules for Institutions Operating Under the Exceptions or Exemptions for Banks From the Definitions of ''Broker'' or ''Dealer'' in the Securities Exchange Act of 1934 (3064–AD80)

This RIN has been withdrawn for further interagency action.

Regulatory Capital Rules (Part III): Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements (3064–AD96)

On August 30, 2012, the FDIC, together with the Board of Governors of the Federal Reserve System and Office of the Comptroller of the Currency (together, ''the agencies'') published in the **Federal Register** a joint notice of proposed rulemaking, titled, Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements'' (Standardized Approach NPR or Proposed Rule). The Rule revised and harmonized the agencies' rules for calculating risk weighted assets to enhance risk sensitivity and address weaknesses identified over recent years, including by incorporating certain international capital standards of the Basel Committee on Banking Supervision (''BCBS'') set forth in the standardized approach of the international accord titled, ''International Convergency of Capital Measurement and Capital Standards: A Revised Framework'', as revised by the BCBS in 2006 and 2009, as well as other proposals set forth in consultative papers of the BCBS. Section 3(a) of the Regulatory Flexibility Act directs all federal agencies to publish an initial regulatory flexibility analysis, or a summary thereof, describing the impact of a proposed rule on small entities anytime an agency is required to publish a notice of proposed rulemaking in the **Federal Register**. This Rule has now been merged into 3064–AD95: Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardize Approach for Risk-Weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule.

Regulatory Capital Rules: Advanced Approaches Risk-Based Capital Rules; Market Risk Capital Rule (3064–AD97)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the ''Agencies'') are seeking comment on three notices of proposed rulemaking (''NPRMs'') that would revise and replace the Agencies' current capital rules. In the NPRM (Advanced Approaches and Market Risk NPR) the Agencies are proposing to revise the advanced approaches risk-based capital rule to incorporate certain aspects of ''Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems'' that the agencies would apply only to advanced approach banking organizations. The NPRM also proposes other changes to the advanced approaches rule that the agencies believe are consistent with changes by the Basel Committee on Banking Supervision (''BCBS'') to its ''International Convergence of Capital Measurement and Capital Standards: A Revised Framework'' (Basel II), as revised by the BCBS between 2006 and 2009, and recent consultative papers published by the BCBS. The Agencies

also propose to revise the advanced approaches risk-based capital rule to be consistent with Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act''). These revisions include replacing reference to credit ratings with alternative standards of creditworthiness consistent with section 939A of the Dodd-Frank Act. This Rule has now been merged into 3064–AD95: Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardize Approach for Risk-Weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–29649 Filed 1–6–14; 8:45 a.m.]

Editorial Note: FR Doc. 2013–29649 originally published on pages 1281–1287 in the issue of Tuesday, January 7, 2014. Due to numerous errors, the preamble is being reprinted in its entirety.

[FR Doc. R1–2013–29649 Filed 1–14–14; 8:45 am]

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