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FEDERAL REGISTER

Vol. 79 Wednesday,
No. 14 January 22, 2014

Pages 3481–3722

OFFICE OF THE FEDERAL REGISTER

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1003; Directorate Identifier 2013–NE–33–AD; Amendment 39–17724; AD 2014–01–01]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Turbomeca S.A. Arrius 2F turboshaft engines. This AD requires a one-time inspection of the ejector assembly nozzle of an affected lubricating device and, if a discrepancy is found, removal and replacement with a part eligible for installation. This AD was prompted by an in-flight shutdown (IFSD) of an Arriel 1 engine. We are issuing this AD to prevent failure of the ejector assembly nozzle, which could lead to an IFSD of the engine, damage to the engine, and damage to the helicopter.

DATES: This AD becomes effective February 6, 2014.

We must receive comments on this AD by March 10, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of February 6, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

For service information identified in this AD, contact Turbomeca, S.A., 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; telex: 570 042; fax: 33 (0)5 59 74 45 15. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7125.

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–2013–1003; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: 800–647–5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0243, dated October 1, 2013 (referred to herein after as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> An in-flight shutdown (IFSD) occurred on an ARRIEL 1 engine, as a result of incorrect bonding of the nozzle on the ejector assembly fitted to the engine. The subsequent technical investigation concluded that ARRIUS 2F engines are also potentially affected and it was possible to identify a batch of parts that could have this non-conformity.
>
> This condition, if not detected and corrected, could lead to further cases of IFSD, possibly resulting in forced landing.

Failure to address this condition may lead to an emergency landing and subsequent damage to the helicopter. You may obtain further information by examining the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1003.

Relevant Service Information

Turbomeca S.A. has issued MSB No. 319 79 4835, Version A, dated May 22, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of France and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has 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 provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require a one-time inspection of the nozzle of the ejector assembly of all Turbomeca S.A. Arrius 2F turboshaft engines and, if a discrepancy is found, removal of the ejector assembly or the affected lubricating device and its replacement with a part eligible for installation.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of the short compliance time requirement. Therefore, we find that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1003; Directorate Identifier 2013–NE–33–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Costs of Compliance

We estimate that this AD will affect about 27 engines installed on aircraft of U.S. registry. We also estimate that it will take about 1 hour per engine to comply with this AD. The average labor rate is $85 per hour. Required parts cost about $526 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $16,497.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–01–01 Turbomeca S.A.: Amendment 39–17724; Docket No. FAA–2013–1003; Directorate Identifier 2013–NE–33–AD.

(a) Effective Date

This AD is effective February 6, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Turbomeca S.A. Arrius 2F turboshaft engines.

(d) Reason

This AD was prompted by an in-flight shutdown (IFSD) of an Arriel 1 engine as a result of incorrect bonding of the nozzle on the ejector assembly fitted to the engine. We are issuing this AD to prevent failure of the ejector assembly nozzle, which could lead to an IFSD of the engine, damage to the engine, and damage to the helicopter.

(e) Actions and Compliance

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

(1) For engines equipped with a lubricating device having a serial number (S/N) listed in Figure 1 to paragraph (e) of this AD, within 30 days after the effective date of this AD, inspect the nozzle of the ejector assembly and the tightening torque. Use paragraph 6.B.(2)(b)*2* through 6.B.(2)(c)*4.2,* excluding paragraph 6.B.(2)(b)*4,* of Turbomeca Mandatory Service Bulletin (MSB) No. 319 79 4835, Version A, dated May 22, 2013, to do your inspection.

(2) For any part that fails the inspection required by paragraph (e)(1) of this AD, before further flight, remove and replace the failed part with a part eligible for installation.

FIGURE 1 TO PARAGRAPH (e)—S/N'S OF AFFECTED LUBRICATING DEVICES

S/N's		
105M	108M	109M
112B	120	122B
129M	134B	138B
141M	142B	147M
149B	210M	231
247	254	266M
270	292M	333M
443M	445M	467M
479M	526M	563M

(f) Installation Prohibition

After the effective date of this AD, do not install onto any engine a nozzle ejector assembly subject to this AD, or install any engine onto any helicopter if the engine has an ejector assembly containing a lubricating device with an S/N listed in Figure 1 to paragraph (e) of this AD, unless the engine has been inspected per the requirements of paragraph (e) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(h) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2013–0243, dated October 1, 2013. You may examine the MCAI in the AD docket on the Internet at *http://*

www.regulations.gov by searching for and locating it in Docket No. FAA–2013–1003.

(3) Turbomeca S.A. Arrius 2F Technical Instruction No. 319 79 4831, Revision No. 01, dated May 30, 2011, which is not incorporated by reference in this AD, pertains to the subject of this AD and can be obtained from Turbomeca S.A. using the contact information in paragraph (i)(3) of this AD.

(i) Material Incorporated by Reference

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

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

(i) Turbomeca S.A. Mandatory Service Bulletin No. 319 79 4835, Version A, dated May 22, 2013.

(ii) Reserved.

(3) For Turbomeca service information identified in this AD, contact Turbomeca, S.A., 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; telex: 570 042; fax: 33 (0)5 59 74 45 15.

(4) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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

Issued in Burlington, Massachusetts, on January 2, 2014.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–01090 Filed 1–21–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

Regulations Under Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 With Regard to Small Power Production and Cogeneration

CFR Correction

■ In Title 18 of the Code of Federal Regulations, Parts 1 to 399, revised as of April 1, 2013, on page 862, in § 292.303, in paragraph (c)(1), the word ''costs'' is removed from the first sentence and added to the last sentence after ''interconnection''.

[FR Doc. 2014–01293 Filed 1–21–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 57 and 602

[TD 9643]

RIN 1545–BL20

Health Insurance Providers Fee

Correction

In rule document 2013–28412 appearing on pages 71476–71493 in the issue of November 29, 2013, make the following correction:

On page 71481, in the second column, in the first full paragraph, in the last line ''§ 1.414(c)–(5)'' should read ''§ 1.414(c)–5)''.

[FR Doc. C1–2013–28412 Filed 1–21–14; 8:45 am]

BILLING CODE 1505–01–D

NATIONAL LABOR RELATIONS BOARD

29 CFR Parts 101 and 102

RIN 3142–AA08

Representation—Case Procedures

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: This final rule rescinds the amendments to the National Labor Relations Board's (the Board's) representation case procedures adopted by the Board's final rule of December 22, 2011, consistent with the district court's decision in *Chamber of Commerce of the U.S.* v. *NLRB* setting aside that rule. On December 9, 2013, the Court of Appeals for the District of Columbia Circuit dismissed the Board's appeal of the district court's decision, pursuant to the parties' stipulation. Now that the district court's decision is no longer subject to appellate review, this final rule restores the relevant language in the CFR to that which existed before the Board issued the December 22, 2011 final rule.

DATES: *Effective Date:* January 22, 2014.

FOR FURTHER INFORMATION CONTACT: Gary Shinners, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Washington, DC 20570, (202) 273–3737 (this is not a toll-free number), 1–866–315–6572 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 22, 2011, the National Labor Relations Board (Board or NLRB) published a final rule amending its regulations governing representation case procedures. 76 FR 80138. The final rule was immediately challenged in Federal district court. See *Chamber of Commerce of the U.S.* v. *NLRB,* 879 F. Supp. 2d 18, 21, 24 (D.D.C. 2012). On May 14, 2012, the court struck down the rule on only one ground: that the Board lacked a quorum when it issued the final rule because Member Hayes (one of the Board's three Members at the time of the rule's publication) was ''absent'' from the vote—rather than ''abstaining'' from the vote, as the Board asserted. *Id.* at 28–30. On July 27, 2012, the court denied the Board's motion for reconsideration of its opinion. *Id.* at 30–35.

The Board appealed to the D.C. Circuit. On December 9, 2013, the D.C. Circuit dismissed the Board's appeal of the district court's decision pursuant to a joint stipulation of the parties. As there is no longer a possibility that the district court's opinion will be overturned on appeal, there is no basis for the language in the CFR to continue to reflect the amendments made by the Board's December 22, 2011 final rule.

II. Changes to the CFR

Pursuant to the Board's December 22, 2011 final rule, the CFR was changed in the following ways. In part 101, subpart C, consisting of §§ 101.17 through 101.21, was removed and reserved. In part 101, subpart D, §§ 101.23 and 101.25 were amended. In part 101, subpart E, §§ 101.28, 101.29 and 101.30 were amended. In part 102, subpart C, §§ 102.62, 102.63, 102.64, 102.65, 102.66, 102.67 and 102.69 were amended. In part 102, subpart D, § 102.77 was amended. In part 102, subpart E, §§ 102.85 and 102.86 were amended.

To implement the district court's decision, this rule makes some changes to the regulatory text. Specifically, the changes detailed in this rule restore the language of each of those subparts to that which existed prior to the December 22, 2011 amendments, with the exception of certain non-substantive changes required for publication by the Office of the Federal Register, such as spelling corrections and formatting changes.

The Board finds that notice and comment are unnecessary for these changes because they implement the final decision of the District Court of the District of Columbia, which set aside the

December 2011 final rule. Even when the requirements of the Administrative Procedure Act (APA) for notice of proposed rulemaking (NPRM) and opportunity for public comment would otherwise be applicable, the APA provides an exception when an agency ''for good cause finds * * * that notice and public procedure * * * are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). The restoration of the sections detailed above in 29 CFR Parts 101 and 102, conforms the Board's statements of procedures and rules and regulations to the district court's mandate that ''representation elections will have to continue under the old procedures.'' *Chamber of Commerce of the U.S.* v. *NLRB,* 879 F. Supp. 2d at 30. The APA exception is appropriate because the Board lacks any policy discretion in implementing this mandate. For the same reason, the Board finds good cause for these changes to take immediate effect.

III. Regulatory Procedures

Regulatory Flexibility Act

The Board is not required to prepare a final regulatory flexibility analysis for this final rule under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601, et seq., because the Agency has not issued an NPRM prior to this action. As addressed above, promulgation of this final rule is strictly technical in that it restores the NLRB's statements of procedures and rules and regulations in accord with a nondiscretionary judicial mandate, and conforms the regulations to current agency practice.

Paperwork Reduction Act

This final rule would not impose any information collection requirements under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq.

List of Subjects

29 CFR Part 101

Administrative practice and procedure, Labor management relations.

29 CFR Part 102

Administrative practice and procedure, Labor management relations.

In consideration of the foregoing, the National Labor Relations Board amends Chapter I of title 29, Code of Federal Regulations, as follows:

PART 101—STATEMENTS OF PROCEDURES

■ 1. The authority citation for part 101 continues to read as follows:

Authority: Sec. 6 of the National Labor Relations Act, as amended (29 U.S.C. 151, 156), and sec. 552(a) of the Administrative Procedure Act (5 U.S.C. 552(a)). Section 101.14 also issued under sec. 2112(a)(1) of Pub. L. 100–236, 28 U.S.C. 2112(a)(1).

■ 2. Add Subpart C to Part 101 to read as follows:

Subpart C—Representation Cases Under Section 9(c) of the Act and Petitions for Clarification of Bargaining Units and for Amendment of Certifications Under Section 9(b) of the Act

Sec.

101.17 Initiation of representation cases and petitions for clarification and amendment.
101.18 Investigation of petition.
101.19 Consent adjustments before formal hearing.
101.20 Formal hearing.
101.21 Procedure after hearing.

§ 101.17 Initiation of representation cases and petitions for clarification and amendment.

The investigation of the question as to whether a union represents a majority of an appropriate grouping of employees is initiated by the filing of a petition by any person or labor organization acting on behalf of a substantial number of employees or by an employer when one or more individuals or labor organizations present a claim to be recognized as the exclusive bargaining representative. If there is a certified or currently recognized representative, any employee, or group of employees, or any individual or labor organization acting in their behalf may also file decertification petitions to test the question of whether the certified or recognized agent is still the representative of the employees. If there is a certified or currently recognized representative of a bargaining unit and there is no question concerning representation, a party may file a petition for clarification of the bargaining unit. If there is a unit covered by a certification and there is no question concerning representation, any party may file a petition for amendment to reflect changed circumstances, such as changes in the name or affiliation of the labor organization involved or in the name or location of the employer involved. The petition must be in writing and signed, and either must be notarized or must contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his or her knowledge and belief. It is filed with the Regional Director for the Region in which the proposed or actual bargaining unit exists. Petition forms, which are supplied by the Regional Office upon request, provide, among other things, for a description of the contemplated or existing appropriate bargaining unit, the approximate number of employees involved, and the names of all labor organizations which claim to represent the employees. If a petition is filed by a labor organization seeking certification, or in the case of a petition to decertify a certified or recognized bargaining agent, the petitioner must supply, within 48 hours after filing but in no event later than the last day on which the petition might timely be filed, evidence of representation. Such evidence is usually in the form of cards, which must be dated, authorizing the labor organization to represent the employees or authorizing the petitioner to file a decertification petition. If a petition is filed by an employer, the petitioner must supply, within 48 hours after filing, proof of demand for recognition by the labor organization named in the petition and, in the event the labor organization named is the incumbent representative of the unit involved, a statement of the objective considerations demonstrating reasonable grounds for believing that the labor organization has lost its majority status.

§ 101.18 Investigation of petition.

(a) Upon receipt of the petition in the Regional Office, it is docketed and assigned to a member of the staff, usually a field examiner, for investigation. The field examiner conducts an investigation to ascertain:

(1) Whether the employer's operations affect commerce within the meaning of the Act,

(2) The appropriateness of the unit of employees for the purposes of collective bargaining and the existence of a bona fide question concerning representation within the meaning of the Act,

(3) Whether the election would effectuate the policies of the Act and reflect the free choice of employees in the appropriate unit, and

(4) Whether, if the petitioner is a labor organization seeking recognition, there is a sufficient probability, based on the evidence of representation of the petitioner, that the employees have selected it to represent them. The evidence of representation submitted by the petitioning labor organization or by

the person seeking decertification is ordinarily checked to determine the number or proportion of employees who have designated the petitioner, it being the Board's administrative experience that in the absence of special factors the conduct of an election serves no purpose under the statute unless the petitioner has been designated by at least 30 percent of the employees. However, in the case of a petition by an employer, no proof of representation on the part of the labor organization claiming a majority is required and the Regional Director proceeds with the case if other factors require it unless the labor organization withdraws its claim to majority representation. The field examiner, or other member of the staff, attempts to ascertain from all interested parties whether or not the grouping or unit of employees described in the petition constitutes an appropriate bargaining unit. The petition may be amended at any time prior to hearing and may be amended during the hearing in the discretion of the hearing officer upon such terms as he or she deems just.

(b) The petitioner may on its own initiative request the withdrawal of the petition if the investigation discloses that no question of representation exists within the meaning of the statute, because, among other possible reasons, the unit is not appropriate, or a written contract precludes further investigation at that time, or where the petitioner is a labor organization or a person seeking decertification and the showing of representation among the employees is insufficient to warrant an election under the 30-percent principle stated in paragraph (a) of this section.

(c) For the same or similar reasons the Regional Director may request the petitioner to withdraw its petition. If the petitioner, despite the Regional Director's recommendations, refuses to withdraw the petition, the Regional Director then dismisses the petition, stating the grounds for dismissal and informing the petitioner of its right of appeal to the Board in Washington, DC. The petition may also be dismissed in the discretion of the Regional Director if the petitioner fails to make available necessary facts which are in its possession. The petitioner may within 14 days appeal from the Regional Director's dismissal by filing such request with the Board in Washington, DC; after a full review of the file with the assistance of its staff, the Board may sustain the dismissal, stating the grounds of its affirmance, or may direct the Regional Director to take further action.

§ 101.19 Consent adjustments before formal hearing.

The Board has devised and makes available to the parties three types of informal consent procedures through which representation issues can be resolved without recourse to formal procedures. These informal arrangements are commonly referred to as consent-election agreement followed by Regional Director's determination, stipulated election agreement followed by Board certification, and full consent agreement, in which the parties agree that all pre- and postelection disputes will be resolved with finality by the Regional Director. Forms for use in these informal procedures are available in the Regional Offices.

(a)(1) The consent-election agreement followed by the Regional Director's determination of representatives is one method of informal adjustment of representation cases. The terms of the agreement providing for this form of adjustment are set forth in printed forms, which are available upon request at the Board's Regional Offices. Under these terms the parties agree with respect to the appropriate unit, the payroll period to be used as the basis of eligibility to vote in an election, and the place, date, and hours of balloting. A Board agent arranges the details incident to the mechanics and conduct of the election. For example, the Board agent usually arranges preelection conferences in which the parties check the list of voters and attempt to resolve any questions of eligibility. Also, prior to the date of election, the holding of such election shall be adequately publicized by the posting of official notices in the establishment whenever possible or in other places, or by the use of other means considered appropriate and effective. These notices reproduce a sample ballot and outline such election details as location of polls, time of voting, and eligibility rules.

(2) The actual polling is always conducted and supervised by Board agents. Appropriate representatives of each party may assist them and observe the election. As to the mechanics of the election, a ballot is given to each eligible voter by the Board's agents. The ballots are marked in the secrecy of a voting booth. The Board agents and authorized observers have the privilege of challenging for reasonable cause employees who apply for ballots.

(3) Customarily the Board agents, in the presence and with the assistance of the authorized observers, count and tabulate the ballots immediately after the closing of the polls. A complete tally of the ballots is made available to the parties upon the conclusion of the election.

(4) If challenged ballots are sufficient in number to affect the results of the election, the Regional Director conducts an investigation and rules on the challenges. Similarly, if objections to the conduct of the election are filed within 7 days after the tally of ballots has been prepared, the Regional Director likewise conducts an investigation and rules on the objections. If, after investigation, the objections are found to have merit, the Regional Director may void the election results and conduct a new election.

(5) This form of agreement provides that the rulings of the Regional Director on all questions relating to the election (for example, eligibility to vote and the validity of challenges and objections) are final and binding. Also, the agreement provides for the conduct of a runoff election, in accordance with the provisions of the Board's Rules and Regulations, if two or more labor organizations appear on the ballot and no one choice receives the majority of the valid votes cast.

(6) The Regional Director issues to the parties a certification of the results of the election, including certifications of representative where appropriate, with the same force and effect as if issued by the Board.

(b) The stipulated election agreement followed by a Board determination provides that disputed matters following the agreed-upon election, if determinative of the results, can be the basis of a formal decision by the Board instead of an informal determination by the Regional Director, except that if the Regional Director decides that a hearing on objections or challenged ballots is necessary the Director may direct such a hearing before a hearing officer, or, if the case is consolidated with an unfair labor practice proceeding, before an administrative law judge. If a hearing is directed, such action on the part of the Regional Director constitutes a transfer of the case to the Board. Thus, except for directing a hearing, it is provided that the Board, rather than the Regional Director, makes the final determination of questions raised concerning eligibility, challenged votes, and objections to the conduct of the election. If challenged ballots are sufficient in number of affect the results of the election, the Regional Director conducts an investigation and issues a report on the challenges instead of ruling thereon, unless the Director elects to hold a hearing. Similarly, if objections to the conduct of the election are filed within 7 days after the tally of ballots has been prepared, the Regional Director likewise

conducts an investigation and issues a report instead of ruling on the validity of the objections, unless the Director elects to hold a hearing. The Regional Director's report is served on the parties, who may file exceptions thereto within 14 days with the Board in Washington, DC. The Board then reviews the entire record made and may, if a substantial issue is raised, direct a hearing on the challenged ballots or the objections to the conduct of the election. Or, the Board may, if no substantial issues are raised, affirm the Regional Director's report and take appropriate action in termination of the proceedings. If a hearing is ordered by the Regional Director or the Board on the challenged ballots or objections, all parties are heard and a report containing findings of fact and recommendations as to the disposition of the challenges or objections, or both, and resolving issues of credibility is issued by the hearing officer and served on the parties, who may file exceptions thereto within 14 days with the Board in Washington, DC. The record made on the hearing is reviewed by the Board with the assistance of its staff counsel and a final determination made thereon. If the objections are found to have merit, the election results may be voided and a new election conducted under the supervision of the Regional Director. If the union has been selected as the representative, the Board or the Regional Director, as the case may be, issues its certification and the proceeding is terminated. If upon a decertification or employer petition the union loses the election, the Board or the Regional Director, as the case may be, certifies that the union is not the chosen representative.

(c) The full consent-election agreement followed by the Regional Director's determination of representatives is another method of informal adjustment of representation cases.

(1) Under these terms the parties agree that if they are unable to informally resolve disputes arising with respect to the appropriate unit and other issues pertaining to the resolution of the question concerning representation; the payroll period to be used as the basis of eligibility to vote in an election, the place, date, and hours of balloting, or other details of the election, those issues will be presented to, and decided with finality by the Regional Director after a hearing conducted in a manner consistent with the procedures set forth in § 101.20.

(2) Upon the close of the hearing, the entire record in the case is forwarded to the Regional Director. The hearing officer also transmits an analysis of the issues and the evidence, but makes no recommendations as to resolution of the issues. All parties may file briefs with the Regional Director within 7 days after the close of the hearing. The parties may also request to be heard orally. After review of the entire case, the Regional Director issues a final decision, either dismissing the petition or directing that an election be held. In the latter event, the election is conducted under the supervision of the Regional Director in the manner already described in this section.

(3) All matters arising after the election, including determinative challenged ballots and objections to the conduct of the election shall be processed in a manner consistent with paragraphs (a)(4), (5), and (6) of this section.

§ 101.20 Formal hearing.

(a) If no informal adjustment of the question concerning representation has been effected and it appears to the Regional Director that formal action is necessary, the Regional Director will institute formal proceedings by issuance of a notice of hearing on the issues, which is followed by a decision and direction of election or dismissal of the case. In certain types of cases, involving novel or complex issues, the Regional Director may submit the case for advice to the Board before issuing notice of hearing.

(b) The notice of hearing, together with a copy of the petition, is served on the unions and employer filing or named in the petition and on other known persons or labor organizations claiming to have been designated by employees involved in the proceeding.

(c) The hearing, usually open to the public, is held before a hearing officer who normally is an attorney or field examiner attached to the Regional Office but may be another qualified Agency official. The hearing, which is nonadversary in character, is part of the investigation in which the primary interest of the Board's agents is to ensure that the record contains as full a statement of the pertinent facts as may be necessary for determination of the case. The parties are afforded full opportunity to present their respective positions and to produce the significant facts in support of their contentions. In most cases a substantial number of the relevant facts are undisputed and stipulated. The parties are permitted to argue orally on the record before the hearing officer.

§ 101.21 Procedure after hearing.

(a) Pursuant to section 3(b) of the Act, the Board has delegated to its Regional Directors its powers under section 9 of the Act to determine the unit appropriate for the purpose of collective bargaining, to investigate and provide for hearings and determine whether a question of representation exists, and to direct an election or take a secret ballot under subsection (c) or (e) of section 9 and certify the results thereof. These powers include the issuance of such decisions, orders, rulings, directions, and certifications as are necessary to process any representation or deauthorization petition. Thus, by way of illustration and not of limitation, the Regional Director may dispose of petitions by administrative dismissal or by decision after formal hearing; pass upon rulings made at hearings and requests for extensions of time for filing of briefs; rule on objections to elections and challenged ballots in connection with elections Directed by the Regional Director or the Board, after administrative investigation or formal hearing; rule on motions to amend or rescind any certification issued after the effective date of the delegation; and entertain motions for oral argument. The Regional Director may at any time transfer the case to the Board for decision, but until such action is taken, it will be presumed that the Regional Director will decide the case. In the event the Regional Director decides the issues in a case, the decision is final subject to the review procedure set forth in the Board's Rules and Regulations.

(b) Upon the close of the hearing, the entire record in the case is forwarded to the Regional Director or, upon issuance by the Regional Director of an order transferring the case, to the Board in Washington, DC. The hearing officer also transmits an analysis of the issues and the evidence, but makes no recommendations in regard to resolution of the issues. All parties may file briefs with the Regional Director or, if the case is transferred to the Board at the close of the hearing, with the Board, within 7 days after the close of the hearing. If the case is transferred to the Board after the close of the hearing, briefs may be filed with the Board within the time prescribed by the Regional Director. The parties may also request to be heard orally. Because of the nature of the proceedings, however, permission to argue orally is rarely granted. After review of the entire case, the Regional Director or the Board issues a decision, either dismissing the petition or directing that an election be held. In the latter event, the election is

conducted under the supervision of the Regional Director in the manner already described in § 101.19 of this subpart.

(c) With respect to objections to the conduct of the election and challenged ballots, the Regional Director has discretion:

(1) To issue a report on such objections and/or challenged ballots and transmit the issues to the Board for resolution, as in cases involving stipulated elections to be followed by Board certifications, or

(2) To decide the issues on the basis of the administrative investigation or after a hearing, with the right to transfer the case to the Board for decision at any time prior to disposition of the issues on the merits. In the event the Regional Director adopts the first procedure, the parties have the same rights, and the same procedure is followed, as has already been described in connection with the postelection procedures in cases involving stipulated elections to be followed by Board certifications. In the event the Regional Director adopts the second procedure, the parties have the same rights, and the same procedure is followed, as has already been described in connection with hearings before elections.

(d) The parties have the right to request review of any final decision of the Regional Director, within the times set forth in the Board's Rules and Regulations, on one or more of the grounds specified therein. Any such request for review must be a self-contained document permitting the Board to rule on the basis of its contents without the necessity of recourse to the record, and must meet the other requirements of the Board's Rules and Regulations as to its contents. The Regional Director's action is not stayed by the filing of such a request or the granting of review, unless otherwise ordered by the Board. Thus, the Regional Director may proceed immediately to make any necessary arrangements for an election, including the issuance of a notice of election. However, unless a waiver is filed, the Director will normally not schedule an election until a date between the 25th and 30th days after the date of the decision, to permit the Board to rule on any request for review which may be filed. As to administrative dismissals prior to the close of hearing, see § 101.18(c) of this subpart.

(e) If the election involves two or more labor organizations and if the election results are inconclusive because no choice on the ballot received the majority of valid votes cast, a runoff election is held as provided in the Board's Rules and Regulations.

Subpart D—Unfair Labor Practice and Representation Cases Under Sections 8(b)(7) and 9(c) of the Act

■ 3. Revise § 101.23 to read as follows:

§ 101.23 Initiation and investigation of a petition in connection with a case under section 8(b)(7).

(a)(1) A representation petition [1] involving the employees of the employer named in the charge is handled under an expedited procedure when the investigation of the charge has revealed that:

(i) The employer's operations affect commerce within the meaning of the Act;

(ii) Picketing of the employer is being conducted for an object proscribed by section 8(b)(7) of the Act;

(iii) Subparagraph (C) of that section of the Act is applicable to the picketing; and

(iv) The petition has been filed within a reasonable period of time not to exceed 30 days from the commencement of the picketing.

(2) In these circumstances, the member of the Regional Director's staff to whom the matter has been assigned investigates the petition to ascertain further: the unit appropriate for collective bargaining; and whether an election in that unit would effectuate the policies of the Act.

(b) If, based on such investigation, the Regional Director determines that an election is warranted, the Director may, without a prior hearing, direct that an election be held in an appropriate unit of employees. Any party aggrieved may file a request with the Board for special permission to appeal that action to the Board, but such review, if granted, will not, unless otherwise ordered by the Board, stay the proceeding. If it is determined that an election is not warranted, the Director dismisses the petition or makes other disposition of the matter. Should the Regional Director conclude that an election is warranted, the Director fixes the basis of eligibility of voters and the place, date, and hours of balloting. The mechanics of arranging the balloting, the other procedures for the conduct of the election, and the postelection proceedings are the same, insofar as appropriate, as those described in § 101.19 of this part, except that the Regional Director's rulings on any objections to the conduct of the election or challenged ballots are final and binding, unless the Board, on an application by one of the parties, grants such party special permission to appeal from the Regional Director's rulings. The party requesting such review by the Board must do so promptly, in writing, and state briefly the grounds relied on. Such party must also immediately serve a copy on the other parties, including the Regional Director. Neither the request for review by the Board nor the Board's grant of such review operates as a stay of any action taken by the Regional Director, unless specifically so ordered by the Board. If the Board grants permission to appeal, and it appears to the Board that substantial and material factual issues have been presented with respect to the objections to the conduct of the election or challenged ballots, it may order that a hearing be held on such issues or take other appropriate action.

(c) If the Regional Director believes, after preliminary investigation of the petition, that there are substantial issues which require determination before an election may be held, the Director may order a hearing on the issues. This hearing is followed by Regional Director or Board decision and direction of election, or other disposition. The procedures to be used in connection with such hearing and posthearing proceedings are the same, insofar as they are applicable, as those described in §§ 101.20 and 101.21 of this part, except that the parties may not file briefs with the Regional Director or the Board unless special permission therefore is granted, but may state their respective legal positions fully on the record at the hearing, and except that any request for review must be filed promptly after issuance of the Regional Director's decision.

(d) Should the parties so desire, they may, with the approval of the Regional Director, resolve the issues as to the unit, the conduct of the balloting, and related matters pursuant to informal consent procedures, as described in § 101.19(a) of this part.

(e) If a petition has been filed which does not meet the requirements for processing under the expedited procedures, the Regional Director may process it under the procedures set forth in subpart C of this part.

■ 4. Revise § 101.25 to read as follows:

§ 101.25 Appeal from the dismissal of a petition, or from the refusal to process it under the expedited procedure.

If it is determined after investigation of the representation petition that further proceedings based thereon are not warranted, the Regional Director,

[1] The manner of filing of such petition and the contents thereof are the same as described in § 101.17 of this part, except that the petitioner is not required to allege that a claim was made on the employer for recognition or that the union represents a substantial number of employees.

absent withdrawal of the petition, dismisses it, stating the grounds therefore. If it is determined that the petition does not meet the requirements for processing under the expedited procedure, the Regional Director advises the petitioner of the determination to process the petition under the procedures described in subpart C of this part. In either event, the Regional Director informs all the parties of such action, and such action is final, although the Board may grant an aggrieved party permission to appeal from the Regional Director's action. Such party must request such review promptly, in writing, and state briefly the grounds relied on. Such party must also immediately serve a copy on the other parties, including the Regional Director. Neither the request for review by the Board, nor the Board's grant of such review, operates as a stay of the action taken by the Regional Director, unless specifically so ordered by the Board.

Subpart E—Referendum Cases Under Section 9(e)(1) and (2) of the Act

■ 5. Revise § 101.28 to read as follows:

§ 101.28 Consent agreements providing for election.

(a) The Board makes available to the parties three types of informal consent procedures through which authorization issues can be resolved without resort to formal procedures. These informal agreements are commonly referred to as consent-election agreement followed by Regional Director's determination, stipulated election agreement followed by Board certification, and full consent-election agreement providing for the Regional Director's determination of both pre- and postelection matters. Forms for use in these informal procedures are available in the Regional Offices.

(b) The procedures to be used in connection with a consent-election agreement providing for the Regional Director's determination, a stipulated election agreement providing for Board certification, and the full consent-election agreement providing for the Regional Director's determination of both pre- and postelection matters are the same as those already described in subpart C of this part in connection with similar agreements in representation cases under section 9(c) of the Act, except that no provision is made for runoff elections.

■ 6. Revise § 101.29 to read as follows:

§ 101.29 Procedure respecting election conducted without hearing.

If the Regional Director determines that the case is an appropriate one for election without formal hearing, an election is conducted as quickly as possible among the employees and upon the conclusion of the election the Regional Director makes available to the parties a tally of ballots. The parties, however, have an opportunity to make appropriate challenges and objections to the conduct of the election and they have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots, as has already been described in subpart C of the Statements of Procedure in connection with the postelection procedures in representation cases under section 9(c) of the Act, except that no provision is made for a runoff election. If no such objections are filed within 7 days and if the challenged ballots are insufficient in number to affect the results of the election, the Regional Director issues to the parties a certification of the results of the election, with the same force and effect as if issued by the Board.

■ 7. Revise § 101.30 to read as follows:

§ 101.30 Formal hearing and procedure respecting election conducted after hearing.

(a) The procedures are the same as those described in subpart C of the Statements of Procedure respecting representation cases arising under section 9(c) of the Act. If the preliminary investigation indicates that there are substantial issues which require determination before an appropriate election may be held, the Regional Director will institute formal proceedings by issuance of a notice of hearing on the issues which, after hearing, is followed by Regional Director or Board decision and direction of election or dismissal. The notice of hearing together with a copy of the petition is served on the petitioner, the employer, and any other known persons or labor organizations claiming to have been designated by employees involved in the proceeding.

(b) The hearing, usually open to the public, is held before a hearing officer who normally is an attorney or field examiner attached to the Regional Office but may be another qualified Agency official. The hearing, which is nonadversary in character, is part of the investigation in which the primary interest of the Board's agents is to insure that the record contains as full a statement of the pertinent facts as may be necessary for determination of the case. The parties are afforded full opportunity to present their respective positions and to produce the significant facts in support of their contentions. In most cases a substantial number of the relevant facts are undisputed and stipulated. The parties are permitted to argue orally on the record before the hearing officer.

(c) Upon the close of the hearing, the entire record in the case is then forwarded to the Regional Director or the Board, together with an informal analysis by the hearing officer of the issues and the evidence but without recommendations. All parties may file briefs with the Regional Director or the Board within 7 days after the close of the hearing. If the case is transferred to the Board after the close of the hearing, briefs may be filed with the Board within the time prescribed by the Regional Director. The parties may also request to be heard orally. Because of the nature of the proceeding, however, permission to argue orally is rarely granted. After review of the entire case, the Board issues a decision either dismissing the petition or directing that an election be held. In the latter event, the election is conducted under the supervision of the Regional Director in the manner already described in § 101.19 of this part.

(d) The parties have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots as has already been described in connection with the postelection procedures in representation cases under section 9(c) of the Act.

PART 102—RULES AND REGULATIONS, SERIES 8

■ 8. The authority citation for part 102 continues to read as follows:

Authority: Sections. 1, 6, National Labor Relations Act (29 U.S.C. 151, 156). Section 102.117 also issued under section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)), and Section 102.117a also issued under section 552a(j) and (k) of the Privacy Act of 1974 (5 U.S.C. 552a(j) and (k)). Sections 102.143 through 102.155 also issued under section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

■ 9. Revise the heading to Subpart C of Part 102 to read as follows:

Subpart C—Procedure Under Section 9(c) of the Act for the Determination of Questions Concerning Representation of Employees [2] and for Clarification of Bargaining Units and for Amendment of Certifications Under Section 9(b) of the Act

■ 10. Revise § 102.62 to read as follows:

§ 102.62 Consent-election agreements.

(a) Where a petition has been duly filed, the employer and any individual or labor organizations representing a substantial number of employees involved may, with the approval of the Regional Director, enter into a consent-election agreement leading to a determination by the Regional Director of the facts ascertained after such consent election. Such agreement shall include a description of the appropriate unit, the time and place of holding the election, and the payroll period to be used in determining what employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the Regional Director. The method of conducting such consent election shall be consistent with the method followed by the Regional Director in conducting elections pursuant to §§ 102.69 and 102.70 of this subpart except that the rulings and determinations by the Regional Director of the results thereof shall be final, and the Regional Director shall issue to the parties a certification of the results of the election, including certifications of representative where appropriate, with the same force and effect, in that case, as if issued by the Board, provided further that rulings or determinations by the Regional Director in respect to any amendment of such certification shall also be final.

(b) Where a petition has been duly filed, the employer and any individuals or labor organizations representing a substantial number of the employees involved may, with the approval of the regional director, enter into an agreement providing for a waiver of hearing and a consent election leading to a determination by the Board of the facts ascertained after such consent election, if such a determination is necessary. Such agreement shall also include a description of the appropriate bargaining unit, the time and place of holding the election, and the payroll period to be used in determining which employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the regional director. The method of conducting such election and the post election procedure shall be consistent with that followed by the regional director in conducting elections pursuant to §§ 102.69 and 102.70 of this subpart.

(c) Where a petition has been duly filed, the employer and any individual or labor organizations representing a substantial number of the employees involved may, with the approval of the Regional Director, enter into an agreement providing for a hearing pursuant to §§ 102.63, 102.64, 102.65, 102.66 and 102.67 of this subpart to resolve any issue necessary to resolve the question concerning representation. Upon the conclusion of such a hearing, the Regional Director shall issue a Decision. The rulings and determinations by the Regional Director thereunder shall be final, with the same force and effect, in that case, as if issued by the Board. Any election ordered by the Regional Director shall be conducted under the direction and supervision of the Regional Director. The method of conducting such consent election shall be consistent with the method followed by the Regional Director in conducting elections pursuant to §§ 102.69 and 102.70 of this subpart, except that the rulings and determinations by the Regional Director of the results thereof shall be final, and the Regional Director shall issue to the parties a certification of the results of the election, including certifications of representative where appropriate, with the same force and effect, in that case, as if issued by the Board, provided further that rulings or determinations by the Regional Director in respect to any amendment of such certification shall also be final.

■ 11. Revise § 102.63 to read as follows:

§ 102.63 Investigation of petition by regional director; notice of hearing; service of notice; withdrawal of notice.

(a) After a petition has been filed under § 102.61(a), (b), or (c) of this subpart, if no agreement such as that provided in § 102.62 of this subpart is entered into and if it appears to the regional director that there is reasonable cause to believe that a question of representation affecting commerce exists, that the policies of the act will be effectuated, and that an election will reflect the free choice of employees in the appropriate unit, the Regional Director shall prepare and cause to be served upon the parties and upon any known individuals or labor organizations purporting to act as representatives of any employees directly affected by such investigation, a notice of hearing before a hearing officer at a time and place fixed therein. A copy of the petition shall be served with such notice of hearing. Any such notice of hearing may be amended or withdrawn before the close of the hearing by the regional director on his own motion.

(b) After a petition has been filed under § 102.61(d) or (e) of this subpart, the regional director shall conduct an investigation and, as appropriate, he may issue a decision without a hearing; or prepare and cause to be served upon the parties and upon any known individuals or labor organizations purporting to act as representatives of any employees directly affected by such investigation, a notice of hearing before a hearing officer at a time and place fixed therein; or take other appropriate action. If a notice of hearing is served, it shall be accompanied by a copy of the petition. Any such notice of hearing may be amended or withdrawn before the close of the hearing by the regional director on his own motion. All hearing and posthearing procedure under this paragraph (b) shall be in conformance with §§ 102.64 through 102.68 of this subpart whenever applicable, except where the unit or certification involved arises out of an agreement as provided in § 102.62(a) of this subpart, the regional director's action shall be final, and the provisions for review of regional director's decisions by the Board shall not apply. Dismissals of petitions without a hearing shall not be governed by § 102.71 of this subpart. The regional director's dismissal shall be by decision, and a request for review therefrom may be obtained under § 102.67 of this subpart, except where an agreement under § 102.62(a) of this subpart is involved.

■ 12. Revise § 102.64 to read as follows:

§ 102.64 Conduct of hearing.

(a) Hearings shall be conducted by a hearing officer and shall be open to the public unless otherwise ordered by the hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding. It shall be the duty of the hearing officer to inquire fully into all matters and issues necessary to obtain a full and complete record upon which the Board or the regional director may discharge their duties under section 9(c) of the Act.

(b) The hearing officer may, in his discretion, continue the hearing from day to day, or adjourn it to a later date or to a different place, by announcement

[2] Procedure under the first proviso to sec. 8(b)(7)(C) of the Act is governed by subpart D of this part.

thereof at the hearing or by other appropriate notice.

■ 13. Revise § 102.65 to read as follows:

§ 102.65 Motions; interventions.

(a) All motions, including motions for intervention pursuant to paragraphs (b) and (e) of this section, shall be in writing or, if made at the hearing, may be stated orally on the record and shall briefly state the order or relief sought and the grounds for such motion. An original and two copies of written motions shall be filed and a copy thereof immediately shall be served on the other parties to the proceeding. Motions made prior to the transfer of the case to the Board shall be filed with the regional director, except that motions made during the hearing shall be filed with the hearing officer. After the transfer of the case to the Board, all motions shall be filed with the Board. Such motions shall be printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. Eight copies of such motions shall be filed with the Board. The regional director may rule upon all motions filed with him, causing a copy of said ruling to be served on the parties, or he may refer the motion to the hearing officer: *Provided,* That if the regional director prior to the close of the hearing grants a motion to dismiss the petition, the petitioner may obtain a review of such ruling in the manner prescribed in § 102.71 of this subpart. The hearing officer shall rule, either orally on the record or in writing, upon all motions filed at the hearing or referred to him as hereinabove provided, except that all motions to dismiss petitions shall be referred for appropriate action at such time as the entire record is considered by the regional director or the Board, as the case may be.

(b) Any person desiring to intervene in any proceeding shall make a motion for intervention, stating the grounds upon which such person claims to have an interest in the proceeding. The regional director or the hearing officer, as the case may be, may by order permit intervention in person or by counsel or other representative to such extent and upon such terms as he may deem proper, and such intervenor shall thereupon become a party to the proceeding.

(c) All motions, rulings, and orders shall become a part of the record, except that rulings on motions to revoke subpoenas shall become a part of the record only upon the request of the party aggrieved thereby as provided in § 102.66(c) of this subpart. Unless expressly authorized by the Rules and Regulations, rulings by the regional director or by the hearing officer shall not be appealed directly to the Board, but shall be considered by the Board on appropriate appeal pursuant to § 102.67 (b), (c), and (d) of this subpart or whenever the case is transferred to it for decision: *Provided, however,* That if the regional director has issued an order transferring the case to the Board for decision such rulings may be appealed directly to the Board by special permission of the Board. Nor shall rulings by the hearing officer be appealed directly to the regional director unless expressly authorized by the Rules and Regulations, except by special permission of the regional director, but shall be considered by the regional director when he reviews the entire record. Requests to the regional director, or to the Board in appropriate cases, for special permission to appeal from a ruling of the hearing officer, together with the appeal from such ruling, shall be filed promptly, in writing, and shall briefly state the reasons special permission should be granted and the grounds relied on for the appeal. The moving party shall immediately serve a copy of the request for special permission and of the appeal on the other parties and on the regional director. Any statement in opposition or other response to the request and/or to the appeal shall be filed promptly, in writing, and shall be served immediately on the other parties and on the regional director. If the Board or the regional director, as the case may be, grants the request for special permission to appeal, the Board or the regional director may proceed forthwith to rule on the appeal.

(d) The right to make motions or to make objections to rulings on motions shall not be deemed waived by participation in the proceeding.

(e)(1) A party to a proceeding may, because of extraordinary circumstances, move after the close of the hearing for reopening of the record, or move after the decision or report for reconsideration, for rehearing, or to reopen the record, but no such motion shall stay the time for filing a request for review of a decision or exceptions to a report. No motion for reconsideration, for rehearing, or to reopen the record will be entertained by the Board or by any regional director with respect to any matter which could have been but was not raised pursuant to any other section of these rules: *Provided, however,* That the regional director may treat a request for review of a decision or exceptions to a report as a motion for reconsideration. A motion for reconsideration shall state with particularity the material error claimed and with respect to any finding of material fact shall specify the page of the record relied on for the motion. A motion for rehearing or to reopen the record shall specify briefly the error alleged to require a rehearing or hearing de novo, the prejudice to the movant alleged to result from such error, the additional evidence sought to be adduced, why it was not presented previously, and what result it would require if adduced and credited. Only newly discovered evidence—evidence which has become available only since the close of the hearing—or evidence which the regional director or the Board believes should have been taken at the hearing will be taken at any further hearing.

(2) Any motion for reconsideration or for rehearing pursuant to this paragraph shall be filed within 14 days, or such further period as may be allowed, after the service of the decision or report. Any request for an extension of time to file such a motion shall be served promptly on the other parties. A motion to reopen the record shall be filed promptly on discovery of the evidence sought to be adduced.

(3) The filing and pendency of a motion under this provision shall not unless so ordered operate to stay the effectiveness of any action taken or directed to be taken, except that, if the motion states with particularity that the granting thereof will affect the eligibility to vote of specific employees, the ballots of such employees shall be challenged and impounded in any election conducted while such motion is pending. A motion for reconsideration, for rehearing, or to reopen the record need not be filed to exhaust administrative remedies.

■ 14. Revise § 102.66 to read as follows:

§ 102.66 Introduction of evidence: rights of parties at hearing; subpoenas.

(a) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party and the hearing officer shall have power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses shall be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Stipulations of fact may be introduced in evidence with respect to any issue.

(b) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in

writing, accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

(c) The Board, or any Member thereof, shall, on the written application of any party, forthwith issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence, or documents, in their possession or under their control. The Executive Secretary shall have the authority to sign and issue any such subpoenas on behalf of the Board or any Member thereof. Any party may file applications for subpoenas in writing with the Regional Director if made prior to hearing, or with the hearing officer if made at the hearing. Applications for subpoenas may be made ex parte. The Regional Director or the hearing officer, as the case may be, shall forthwith grant the subpoenas requested. Any person served with a subpoena, whether ad testificandum or duces tecum, if he or she does not intend to comply with the subpoena, shall, within 5 days after the date of service of the subpoena, petition in writing to revoke the subpoena. The date of service for purposes of computing the time for filing a petition to revoke shall be the date the subpoena is received. Such petition shall be filed with the regional director who may either rules upon it or refer it for ruling to the hearing officer: *Provided, however,* That if the evidence called for is to be produced at a hearing and the hearing has opened, the petition to revoke shall be filed with the hearing officer. Notice of the filing of petitions to revoke shall be promptly given by the regional director or hearing officer, as the case may be, to the party at whose request the subpoena was issued. The regional director or the hearing officer, as the case may be, shall revoke the subpoena if, in his opinion, the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpoena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpoena is otherwise invalid. The regional director or the hearing officer, as the case may be, shall make a simple statement of procedural or other grounds for his ruling. The petition to revoke, any answer filed thereto, and any ruling thereon shall not become part of the record except upon the request of the party aggrieved by the ruling. Persons compelled to submit data or evidence are entitled to retain or, on payment of lawfully prescribed costs, to procure copies or transcripts of the data or evidence submitted by them.

(d) Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing.

(e) The hearing officer may submit an analysis of the record to the regional director or the Board but he shall make no recommendations.

(f) Witness fees and mileage shall be paid by the party at whose instance the witness appears.

■ 15. Revise § 102.67 to read as follows:

§ 102.67 Proceedings before the regional director; further hearing; briefs; action by the regional director; appeals from action by the regional director; statement in opposition to appeal; transfer of case to the Board; proceedings before the Board; Board action.

(a) The regional director may proceed, either forthwith upon the record or after oral argument, the submission of briefs, or further hearing, as he may deem proper, to determine the unit appropriate for the purpose of collective bargaining, to determine whether a question concerning representation exists, and to direct an election, dismiss the petition, or make other disposition of the matter. Any party desiring to submit a brief to the regional director shall file the original and one copy thereof, which may be a typed carbon copy, within 7 days after the close of the hearing: *Provided, however,* That prior to the close of the hearing and for good cause the hearing officer may grant an extension of time not to exceed an additional 14 days. Copies of the brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the regional director together with the brief. No reply brief may be filed except upon special leave of the regional director.

(b) A decision by the regional director upon the record shall set forth his findings, conclusions, and order or direction. The decision of the regional director shall be final: *Provided, however,* That within 14 days after service thereof any party may file a request for review with the Board in Washington, DC The regional director shall schedule and conduct any election directed by the decision notwithstanding that a request for review has been filed with or granted by the Board. The filing of such a request shall not, unless otherwise ordered by the Board, operate as a stay of the election or any action taken or directed by the regional director: *Provided, however,* That if a pending request for review has not been ruled upon or has been granted ballots whose validity might be affected by the final Board decision shall be segregated in an appropriate manner, and all ballots shall be impounded and remain unopened pending such decision.

(c) The Board will grant a request for review only where compelling reasons exist therefor. Accordingly, a request for review may be granted only upon one or more of the following grounds:

(1) That a substantial question of law or policy is raised because of

(i) The absence of, or

(ii) A departure from, officially reported Board precedent.

(2) That the regional director's decision on a substantial factual issue is clearly erroneous on the record and such error prejudicially affects the rights of a party.

(3) That the conduct of the hearing or any ruling made in connection with the proceeding has resulted in prejudicial error.

(4) That there are compelling reasons for reconsideration of an important Board rule or policy.

(d) Any request for review must be a self-contained document enabling the Board to rule on the basis of its contents without the necessity or recourse to the record; however, the Board may, in its discretion, examine the record in evaluating the request. With respect to ground (2), and other grounds where appropriate, said request must contain a summary of all evidence or rulings bearing on the issues together with page citations from the transcript and a summary of argument. But such request may not raise any issue or allege any facts not timely presented to the regional director.

(e) Any party may, within 7 days after the last day on which the request for review must be filed, file with the Board a statement in opposition thereto, which shall be served in accordance with the requirements of paragraph (k) of this section. A statement of such service of opposition shall be filed simultaneously with the Board. The Board may deny the request for review without awaiting a statement in opposition thereto.

(f) The parties may, at any time, waive their right to request review. Failure to request review shall preclude such parties from relitigating, in any related subsequent unfair labor practice proceeding, any issue which was, or could have been, raised in the representation proceeding. Denial of a request for review shall constitute an affirmance of the regional director's action which shall also preclude relitigating any such issues in any

related subsequent unfair labor practice proceeding.

(g) The granting of a request for review shall not stay the regional director's decision unless otherwise ordered by the Board. Except where the Board rules upon the issues on review in the order granting review, the appellants and other parties may, within 14 days after issuance of an order granting review, file briefs with the Board. Such briefs may be reproductions of those previously filed with the regional director and/or other briefs which shall be limited to the issues raised in the request for review. Where review has been granted, the Board will consider the entire record in the light of the grounds relied on for review. Any request for review may be withdrawn with the permission of the Board at any time prior to the issuance of the decision of the Board thereon.

(h) In any case in which it appears to the regional director that the proceeding raises questions which should be decided by the Board, he may, at any time, issue an order, to be effective after the close of the hearing and before decision, transferring the case to the Board for decision. Such an order may be served on the parties upon the record of the hearing.

(i) If any case is transferred to the Board for decision after the parties have filed briefs with the regional director, the parties may, within such time after service of the order transferring the case as is fixed by the regional director, file with the Board the brief previously filed with the regional director. No further briefs shall be permitted except by special permission of the Board. If the case is transferred to the Board before the time expires for the filing of briefs with the regional director and before the parties have filed briefs, such briefs shall be filed as set forth above and served in accordance with the requirements of paragraph (k) of this section within the time set by the regional director. If the order transferring the case is served on the parties during the hearing, the hearing officer may, prior to the close of the hearing and for good cause, grant an extension of time within which to file a brief with the Board for a period not to exceed an additional 14 days. No reply brief may be filed except upon special leave of the Board.

(j) Upon transfer of the case to the Board, the Board shall proceed, either forthwith upon the record, or after oral argument or the submission of briefs, or further hearing, as it may determine, to decide the issues referred to it or to review the decision of the regional director and shall direct a secret ballot of the employees or the appropriate action to be taken on impounded ballots of an election already conducted, dismiss the petition, affirm or reverse the regional director's order in whole or in part, or make such other disposition of the matter as it deems appropriate.

(k)(1) All documents filed with the Board under the provisions of this section shall be filed in eight copies, double spaced, on 8½ by 11-inch paper, and shall be printed or otherwise legibly duplicated. Carbon copies of typewritten materials will not be accepted. Requests for review, including briefs in support thereof; statements in opposition thereto; and briefs on review shall not exceed 50 pages in length, exclusive of subject index and table of cases and other authorities cited, unless permission to exceed that limit is obtained from the Board by motion, setting forth the reasons therefor, filed not less than 5 days, including Saturdays, Sundays, and holidays, prior to the date the document is due. Where any brief filed pursuant to this section exceeds 20 pages, it shall contain a subject index with page authorities cited.

(2) The party filing with the Board a request for review, a statement in opposition to a request for review, or a brief on review shall serve a copy thereof on the other parties and shall file a copy with the regional director. A statement of such service shall be filed with the Board together with the document.

(3) Requests for extensions of time to file requests for review, statements in opposition to a request for review, or briefs, as permitted by this section, shall be filed with the Board or the Regional Director, as the case may be. The party filing the request for an extension of time shall serve a copy thereof on the other parties and, if filed with the Board, on the Regional Director. A statement of such service shall be filed with the document.

■ 16. Revise § 102.69 to read as follows:

§ 102.69 Election procedure; tally of ballots; objections; certification by the regional director; report on challenged ballots; report on objections; exceptions; action of the Board; hearing.

(a) Unless otherwise directed by the Board, all elections shall be conducted under the supervision of the Regional Director in whose Region the proceeding is pending. All elections shall be by secret ballot. Whenever two or more labor organizations are included as choices in an election, either participant may, upon its prompt request to and approval thereof by the Regional Director, whose decision shall be final, have its name removed from the ballot: *Provided, however,* That in a proceeding involving an employer-filed petition or a petition for decertification the labor organization certified, currently recognized, or found to be seeking recognition may not have its name removed from the ballot without giving timely notice in writing to all parties and the Regional Director, disclaiming any representation interest among the employees in the unit. Any party may be represented by observers of its own selection, subject to such limitations as the Regional Director may prescribe. Any party and Board agents may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded. Upon the conclusion of the election the ballots will be counted and a tally of ballots prepared and immediately made available to the parties. Within 7 days after the tally of ballots has been prepared, any party may file with the Regional Director an original and five copies of objections to the conduct of the election or to conduct affecting the results of the election, which shall contain a short statement of the reasons therefor. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. A person filing objections by facsimile pursuant to § 102.114(f) of this part shall also file an original for the Agency's records, but failure to do so shall not affect the validity of the filing by facsimile, if otherwise proper. In addition, extra copies need not be filed if the filing is by facsimile pursuant to § 102.114(f) of this part. The Regional Director will cause a copy of the objections to be served on each of the other parties to the proceeding. Within 7 days after the filing of objections, or such additional time as the Regional Director may allow, the party filing objections shall furnish to the Regional Director the evidence available to it to support the objections.

(b) If no objections are filed within the time set forth above, if the challenged ballots are insufficient in number to affect the results of the election, and if no runoff election is to be held pursuant to § 102.70 of this subpart, the regional director shall forthwith issue to the parties a certification of the results of the election, including certification of representative where appropriate, with the same force and effect as if issued by the Board, and the proceeding will thereupon be closed.

(c)(1) If timely objections are filed to the conduct of the election or to conduct affecting the results of the election, or if the challenged ballots are sufficient in

number to affect the results of the election, the regional director shall, consistent with the provisions of § 102.69(d) of this subpart, initiate an investigation, as required, of such objections or challenges.

(2) If a consent election has been held pursuant to § 102.62(b) of this subpart, the regional director shall prepare and cause to be served on the parties a report on challenged ballots or on objections, or on both, including his recommendations, which report, together with the tally of ballots, he shall forward to the Board in Washington, DC. Within 14 days from the date of issuance of the report on challenged ballots or on objections, or on both, any party may file with the Board in Washington, DC, exceptions to such report, with supporting documents as permitted by § 102.69(g)(3) of this subpart and/or a supporting brief if desired. Within 7 days from the last date on which exceptions and any supporting documents and/or supporting brief may be filed, or such further period as the Board may allow, a party opposing the exceptions may file an answering brief, with supporting documents as permitted by § 102.69(g)(3) of this subpart if desired, with the Board in Washington, DC. If no exceptions are filed to such report, the Board, upon the expiration of the period for filing such exceptions, may decide the matter forthwith upon the record or may make other disposition of the case. The report on challenged ballots may be consolidated with the report on objections in appropriate cases.

(3) If the election has been conducted pursuant to a direction of election issued following any proceeding under § 102.67 of this subpart, the regional director may:

(i) Issue a report on objections or on challenged ballots, or on both, as in the case of a consent election pursuant to paragraph (b) of § 102.62 of this subpart, or

(ii) Exercise his authority to decide the case and issue a decision disposing of the issues, and directing appropriate action or certifying the results of the election.

(4) If the regional director issues a report on objections and challenges, the parties shall have the rights set forth in paragraph (c)(2) of this section and in § 102.69(f) of this subpart; if the regional director issues a decision, the parties shall have the rights set forth in § 102.67 of this subpart to the extent consistent herewith, including the right to submit documents supporting the request for review or opposition thereto as permitted by § 102.69(g)(3) of this subpart.

(d) In issuing a report on objections or challenged ballots, or both, following proceedings under §§ 102.62(b) or 102.67 of this subpart, or in issuing a decision on objections or challenged ballots, or both, following proceedings under § 102.67 of this subpart, the regional director may act on the basis of an administrative investigation or upon the record of a hearing before a hearing officer. Such hearing shall be conducted with respect to those objections or challenges which the regional director concludes raise substantial and material factual issues.

(e) Any hearing pursuant to this section shall be conducted in accordance with the provisions of §§ 102.64, 102.65, and 102.66 of this subpart, insofar as applicable, except that, upon the close of such hearing, the hearing officer shall, if directed by the regional director, prepare and cause to be served on the parties a report resolving questions of credibility and containing findings of fact and recommendations as to the disposition of the issues. In any case in which the regional director has directed that a report be prepared and served, any party may, within 14 days from the date of issuance of such report, file with the regional director the original and one copy, which may be a carbon copy, of exceptions to such report, with supporting brief if desired. A copy of such exceptions, together with a copy of any brief filed, shall immediately be served on the other parties and a statement of service filed with the regional director. Within 7 days from the last date on which exceptions and any supporting brief may be filed, or such further time as the regional director may allow, a party opposing the exceptions may file an answering brief with the regional director. An original and one copy, which may be a carbon copy, shall be submitted. A copy of such answering brief shall immediately be served on the other parties and a statement of service filed with the regional director. If no exceptions are filed to such report, the regional director, upon the expiration of the period for filing such exceptions, may decide the matter forthwith upon the record or may make other disposition of the case.

(f) In a case involving a consent election held pursuant to § 102.62(b) of this subpart, if exceptions are filed, either to the report on challenged ballots or on objections, or on both if it be a consolidated report, and it appears to the Board that such exceptions do not raise substantial and material issues with respect to the conduct or results of the election, the Board may decide the matter forthwith upon the record or may make other disposition of the case. If it appears to the Board that such exceptions raise substantial and material factual issues, the Board may direct the regional director or other agent of the Board to issue and cause to be served on the parties a notice of hearing on said exceptions before a hearing officer. The hearing shall be conducted in accordance with the provisions of §§ 102.64, 102.65, and 102.66 of this subpart insofar as applicable. Upon the close of the hearing the agent conducting the hearing, if directed by the Board, shall prepare and cause to be served on the parties a report resolving questions of credibility and containing findings of fact and recommendations to the Board as to the disposition of the challenges or objections, or both if it be a consolidated report. In any case in which the Board has directed that a report be prepared and served, any party may within 14 days from the date of issuance of the report on challenged ballots or on objections, or on both, file with the Board in Washington, DC, exceptions to such report, with supporting brief if desired. Within 7 days from the last date on which exceptions and any supporting brief may be filed, or such further period as the Board may allow, a party opposing the exceptions may file an answering brief with the Board in Washington, DC. If no exceptions are filed to such report, the Board, upon the expiration of the period for filing such exceptions, may decide the matter forthwith upon the record or may make other disposition of the case. The Board shall thereupon proceed pursuant to § 102.67: *Provided, however,* That in any with an unfair labor practice case for purposes of hearing the provisions of § 102.46 of this part of these rules shall govern with respect to the filing of exceptions or an answering brief to the exceptions to the administrative law judge's decision.

(g)(1)(i) In a proceeding pursuant to this section in which a hearing is held, the record in the case shall consist of the notice of hearing, motions, rulings, orders, stenographic report of the hearing, stipulations, exhibits, together with the objections to the conduct of the election or to conduct affecting the results of the election, any report on such objections, any report on challenged ballots, exceptions to any such report, any briefs or other legal memoranda submitted by the parties, the decision of the regional director, if any, and the record previously made as defined in § 102.68 of this subpart.

Materials other than those set out above shall not be a part of the record.

(ii) In a proceeding pursuant to this section in which no hearing is held, the record shall consist of the objections to the conduct of the election or to conduct affecting the results of the election, any report on objections or on challenged ballots and any exceptions to such a report, any regional director's decision on objections or challenged ballots and any request for review of such a decision, any documentary evidence, excluding statements of witnesses, relied upon by the regional director in his decision or report, any briefs or other legal memoranda submitted by the parties, and any other motions, rulings or orders of the regional director. Materials other than those set out above shall not be a part of the record, except as provided in paragraph (g)(3) of this section.

(2) Immediately upon issuance of a report on objections or challenges, or both, upon issuance by the regional director of an order transferring the case to the Board, or upon issuance of an order granting a request for review by the Board, the regional director shall transmit to the Board the record of the proceeding as defined in paragraph (g)(1) of this section.

(3) In a proceeding pursuant to this section in which no hearing is held, a party filing exceptions to a regional director's report on objections or challenges, a request for review of a regional director's decision on objections or challenges, or any opposition thereto, may support its submission to the Board by appending thereto copies of documentary evidence, including copies of any affidavits, it has timely submitted to the regional director and which were not included in the report or decision. Documentary evidence so appended shall there upon become part of the record in the proceeding. Failure to timely submit such documentary evidence to the regional director, or to append that evidence to its submission to the Board in the representation proceeding as provided above, shall preclude a party from replying on such evidence in any subsequent related unfair labor proceeding.

(h) In any such case in which the regional director or the Board, upon a ruling on challenged ballots, has directed that such ballots be opened and counted and a revised tally of ballots issued, and no objection to such revised tally is filed by any party within 7 days after the revised tally of ballots has been made available, the regional director shall forthwith issue to the parties certification of the results of the election, including certifications of representative where appropriate, with the same force and effect as if issued by the Board. The proceeding shall thereupon be closed.

(i)(1) The action of the regional director in issuing a notice of hearing on objections or challenged ballots, or both, following proceedings under § 102.62(b) of this subpart shall constitute a transfer of the case to the Board, and the provisions of § 102.65(c) of this subpart shall apply with respect to special permission to appeal to the Board from any such direction of hearing.

(2) Exceptions, if any, to the hearing officer's report or to the administrative law judge's decision, and any answering brief to such exceptions, shall be filed with the Board in Washington, DC, in accordance with paragraph (f) of this section.

(j)(1) All documents filed with the Board under the provisions of this section shall be filed in eight copies, double spaced, on 8½ by 11-inch paper, and shall be printed or otherwise legibly duplicated. Carbon copies of typewritten materials will not be accepted. Briefs in support of exceptions or answering briefs shall not exceed 50 pages in length, exclusive of subject index and table of cases and other authorities cited, unless permission to exceed that limit is obtained from the Board by motion, setting forth the reasons therefor, filed not less than 5 days, including Saturdays, Sundays, and holidays, prior to the date the brief is due. Where any brief filed pursuant to this section exceeds 20 pages, it shall contain a subject index with page references and an alphabetical table of cases and other authorities cited.

(2) The party filing with the Board exceptions to a report, a supporting brief, or an answering brief shall serve a copy thereof on the other parties and shall file a copy with the regional director. A statement of such service shall be filed with the Board together with the document.

(3) Requests for extensions of time to file exceptions to a report, supporting briefs, or answering briefs, as permitted by this section, shall be filed with the Board on the Regional Director, as the case may be. The party filing the request for an extension of time shall serve a copy thereof on the other parties and, if filed with the Board, or the Regional Director. A statement of such service shall be filed with the document.

Subpart D—Procedure for Unfair Labor Practice and Representation Cases Under Sections 8(b)(7) and 9(c) of the Act

■ 17. Amend § 102.77 by revising paragraph (b) to read as follows:

§ 102.77 Investigation of petition by regional director; directed election.

* * * * *

(b) If after the investigation of such petition or any petition filed under subpart C of this part, and after the investigation of the charge filed pursuant to § 102.73 of this subpart, it appears to the regional director that an expedited election under section 8(b)(7)(C) is warranted, and that the policies of the act would be effectuated thereby, he shall forthwith proceed to conduct an election by secret ballot of the employees in an appropriate unit, or make other disposition of the matter: *Provided, however,* That in any case in which it appears to the regional director that the proceeding raises questions which cannot be decided without a hearing, he may issue and cause to be served on the parties, individuals, and labor organizations involved a notice of hearing before a hearing officer at a time and place fixed therein. In this event, the method of conducting the hearing and the procedure following, including transfer of the case to the Board, shall be governed insofar as applicable by §§ 102.63 to 102.68 of this part, inclusive, except that the parties shall not file briefs without special permission of the regional director or the Board, as the case may be, but shall, however, state their respective legal positions upon the record at the close of the hearing, and except that any request for review of a decision of the regional director shall be filed promptly after the issuance of such decision.

Subpart E—Procedure for Referendum Under Section 9(e) of the Act

■ 18. Revise § 102.85 to read as follows:

§ 102.85 Investigation of petition by regional director; consent referendum; directed referendum.

Where a petition has been filed pursuant to § 102.83 of this subpart and it appears to the regional director that the petitioner has made an appropriate showing, in such form as the regional director may determine, that 30 percent or more of the employees within a unit covered by an agreement between their employer and a labor organization requiring membership in such labor organization desire to rescind the authority of such labor organization to make such an agreement, he shall

proceed to conduct a secret ballot of the employees involved on the question whether they desire to rescind the authority of the labor organization to make such an agreement with their employer: *Provided, however,* That in any case in which it appears to the regional director that the proceeding raises questions which cannot be decided without a hearing, he may issue and cause to be served on the parties a notice of hearing before a hearing officer at a time and place fixed therein. The regional director shall fix the time and place of the election, eligibility requirements for voting, and other arrangements of the balloting, but the parties may enter into an agreement, subject to the approval of the regional director, fixing such arrangements. In any such consent agreements, provision may be made for final determination of all questions arising with respect to the balloting by the regional director or by the Board.

■ 19. Revise § 102.86 to read as follows:

§ 102.86 Hearing; posthearing procedure.

The method of conducting the hearing and the procedure following the hearing, including transfer of the case to the Board, shall be governed, insofar as applicable, by §§ 102.63 to 102.68 of this part, inclusive.

By direction of the Board.

Dated: Washington, DC, January 15, 2014.

William B. Cowen,

Solicitor.

[FR Doc. 2014–01061 Filed 1–21–14; 8:45 am]

BILLING CODE 7545–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–1026]

Drawbridge Operation Regulation; China Basin, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Third Street Drawbridge across China Basin, mile 0.0 at San Francisco, CA. The deviation is necessary to allow the public to cross the bridge to participate in events of the San Francisco Boat Show at AT&T Park and neighboring sites. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 12 p.m. on January 23, 2014 to 6 p.m. on January 26, 2014.

ADDRESSES: The docket for this deviation, [USCG–2013–1026], is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The City of San Francisco Public Works Department has requested a temporary change to the operation of the Third Street Drawbridge, mile 0.0, over China Basin, at San Francisco, CA. The drawbridge navigation span provides 7 feet vertical clearance above Mean High Water in the closed-to-navigation position. The draw opens on signal if at least one hour notice is given as required by 33 CFR 117.149. Navigation on the waterway is recreational.

The drawspan will be secured in the closed-to-navigation position from 12 p.m. to 7 p.m. on January 23 & 24, 2014; from 10 a.m. to 7 p.m. on January 25, 2014; and from 10 a.m. to 6 p.m. on January 26, 2014 to allow the public to cross the bridge during events of the San Francisco Boat Show at AT&T Park. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised. The drawspan can be operated upon one hour advance notice for emergencies requiring the passage of waterway traffic.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies upon one hour advance notice and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: January 7, 2014.

D.H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2014–01093 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–1070]

Drawbridge Operation Regulation; Grassy Sound Channel, Middle Township, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Grassy Sound Channel Bridge (Ocean Drive) across Grassy Sound, mile 1.0, at Middle Township, NJ. The deviation is necessary to accommodate the ''The Wild Half'' half marathon. This temporary deviation allows the bridge draw span to remain in the closed to navigation position for 3 ½ hours during the event.

DATES: This deviation is effective from 7:30 a.m. until 11 a.m. on May 18, 2014.

ADDRESSES: The docket for this deviation, [USCG–2013–1070] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Jim Rousseau, Bridge Administration

Branch Fifth District, Coast Guard; telephone (757) 398–6557, email *James.L.Rousseau2@uscg.mil.* If you have questions on reviewing the docket, call Cheryl Collins, Program Manager, Docket Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION: Cape May County Department of Public Works, owner of the drawbridge, has requested on behalf of Morey's Piers of Wildwood, a temporary deviation from the current operating schedule to accommodate the ''The Wild Half'' half marathon.

The existing drawbridge operation regulations are listed at 33 CFR 117.721. On the day of the event, the normal operating schedule for the Grassy Sound Channel Bridge (Ocean Drive) is open on signal from 6 a.m. to 8 p.m. with a two hours advance notice at all other times.

Under this temporary deviation, the drawbridge will be allowed to remain in the closed to navigation position from 7:30 a.m. to 11 a.m. on Saturday, May 18, 2014 to accommodate ''The Wild Half'' half marathon. The bridge will operate under its normal operating schedule at all other times. Log books indicate there have been no opening requests during this yearly event in 4 years and waterway users are accustomed to the temporary closure.

The Grassy Sound Channel Bridge (Ocean Drive) across the Grassy Sound has a vertical clearance in the closed position of 15 feet above mean high water. Vessels able to pass under the bridge in the closed position may do so at anytime and are advised to proceed with caution. The bridge will be able to open for emergencies. The New Jersey Intracoastal Waterway is an alternate route for vessels transiting this area and vessels may pass before and after the closure. The Coast Guard will also inform additional waterway users through our Local and Broadcast Notices to Mariners of the closure period for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation.

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

Dated: January 10, 2014.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2014–01235 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0964]

Drawbridge Operation Regulation; Upper Mississippi River, Dubuque, IA

AGENCY: Coast Guard, DHS.

ACTION: Notice of change in deviation from drawbridge regulation.

SUMMARY: On December 2, 2013, the Coast Guard issued a temporary deviation, lasting approximately 10 weeks, from the operating schedule that governs the Illinois Central Railroad Drawbridge across the Upper Mississippi River, mile 579.9, at Dubuque, Iowa. This temporary deviation allows the bridge to open on signal if at least 24 hours advance notice is given. It is necessary to allow the bridge owner time to perform preventive maintenance that is essential to the continued safe operation of the drawbridge. Maintenance is scheduled in the winter and when there is less impact on navigation; instead of scheduling work in the summer, when river traffic increases. We are modifying that temporary deviation to allow for two three-day periods during the deviation when the bridge will remain in the closed-to-navigation position.

DATES: The temporary deviation published in the **Federal Register** of December 2, 2013, (78 FR 72022) remains in effect; however, from 8 a.m., January 20, 2014 to 8 a.m., January 23, 2014 and 8 a.m. February 3, 2014, to 8 a.m., February 6, 2014, the bridge will remain in the closed-to-navigation position.

ADDRESSES: The docket for this deviation, [USCG–2013–0964] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation, West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email *Eric.Washburn@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Chicago, Central & Pacific Railroad requested a temporary deviation for the Illinois Central Railroad Drawbridge, across the Upper Mississippi River, mile 579.9, at Dubuque, Iowa to open on signal if at least 24 hours advance notice is given for 76 days from 12:01 a.m., December 18, 2013 to 7 a.m., March 3, 2014 to allow the bridge owner time for preventive maintenance. The temporary deviation published in the **Federal Register** on December 2, 2013 (78 FR 72022). The Chicago, Central & Pacific Railroad further requested, to support preventative maintenance on the bridge, to leave the bridge in the closed-to-navigation position for 6 days from 8 a.m., January 20, 2014 to 8 a.m., January 23, 2014 and 8 a.m., February 3, 2014 to 8 a.m., February 6, 2014. The Illinois Central Railroad Drawbridge regularly operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River.

Winter conditions on the Upper Mississippi River coupled with the closure of Army Corps of Engineer's Lock No. 18 (Mile 410.5, UMR) and Lock No. 22 (Mile 301.2, UMR) until 11:00 a.m., March 4, 2014 will preclude any significant navigation demands for the drawspan opening.

The Illinois Central Railroad Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 19.9 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received.

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

Dated: January 9, 2013.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2014–01240 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–1002]

RIN 1625–AA00

Safety Zone, Vessel Movement, Christina River; Wilmington, DE

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Christina River in Wilmington, DE, from January 18, 2014 to January 31, 2014, to be enforced for a period of 48 hours within this time frame. The safety zone will restrict vessel traffic on the Christina River in the immediate area of the M/V OCEAN FORCE, which will be moored inside a boundary described as originating from 39°43′14″ N, 075°31′41″ W; northeasterly to 39°43′17″ N, 75°31′40″ W; then east to 39°43′15″ N, 075°31′47″ W; then southwesterly to the shoreline at 39°43′10″ N; 075°31′30″ W. The safety zone is intended to facilitate 24 hour cargo operations in which a 110 ft object will be offloaded from the vessel to the facility.

This regulation is necessary to provide for the safety of life on the navigable waters of the Christina River. This safety zone is intended to restrict vessel traffic movement to ensure the safety of the vessels and personnel involved with the cargo operation.

DATES: This rule is effective without actual notice from January 22, 2014 until 7:00 p.m. on January 31, 2014, unless cancelled earlier. For the purposes of enforcement, actual notice will be used from the date the rule was signed, January 6, 2014, until January 22, 2014. This rule will be enforced for a period of 48 hours within this time frame.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–1002]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email If you have questions on this temporary rule, call or email Lieutenant Veronica Smith, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215) 271–4851, email *Veronia.l.Smith@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. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because a safety zone is in the public interest in that the Coast Guard seeks to ensure safety of life and property for both those vessels offloading the large cargo and those persons transiting the Christina River. In this case, waiting for a comment period to run would be contrary to the public interest of protecting life and property. In addition, publishing an NPRM is impracticable as the operators of the M/V OCEAN FORCE did not provide sufficient notice to the Coast Guard relating to the expected date of arrival of the vessel and subsequent offload of the cargo. Therefore, delay in taking action is both impracticable and contrary to public interest.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** as any delay encountered in this regulation's effective date would be contrary to public interest because immediate action is needed to provide for the safety of vessels during the offloading of the cargo.

B. Basis and Purpose

On or after January 18, 2014, the M/V OCEAN FORCE will be arriving to the Port of Wilmington to offload a 110 ft object. To facilitate the cargo operations, the vessel will be Mediterranean moored (placing the vessel's stern to the dock) to the facility. Due to the size of the vessel, expected manner of moorage of the vessel, and the unusual size of the cargo, vessel traffic will be restricted from entering the safety zone during the designated date and time, which accounts for staging of the vessel and machinery to offload the cargo as well as the actual offloading of the cargo. This rule is required in order to safely facilitate cargo operations and protect both life and property on the navigable waterways of the Christina River in respect to the commercial/recreational vessel traffic.

C. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone in the waters of the Christina River in Wilmington, DE from 7 a.m. on January 18, 2014 until 7 p.m. on January 31, 2014, to be enforced for a period of 48 hours within this time frame. The safety zone will restrict vessel traffic from entering in the immediate area of the M/V OCEAN FORCE. The M/V OCEAN FORCE will be moored inside a boundary described as originating from 39°43′14″ N, 075°31′41″ W; northeasterly to 39°43′17″ N, 75°31′40″ W; then east to 39°43′15″ N, 075°31′47″ W; then southwesterly to the shoreline at 39°43′10″ N; 075°31′30″ W. During the enforcement period of the safety zone, all persons and vessels will be prohibited from entering, transiting, mooring, or remaining within the zone, unless specifically authorized by the Captain of the Port Delaware Bay, or her designated representative. Those persons authorized to transit through the safety zone shall abide by and follow all directions provided by the Captain of the Port Delaware Bay, or her designated representative, in order to ensure they are not disrupting the cargo offloading operation.

The Coast Guard will provide notice of the regulated area by Broadcast Notice to Mariners and on-scene designated representatives.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented

by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The Coast Guard will make extensive notification of the Safety Zone to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the safety zone with the permission of the Captain of the Port on a case-by-case basis; and (iii) this rule will be enforced for only the duration of staging and offloading operations.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to anchor or transit along a portion of the Christina River near Wilmington, Delaware, from January 18, 2014 until January 31, 2014, unless cancelled earlier by the Captain of the Port.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: vessel traffic will be allowed to pass through the zone with permission of the Coast Guard Captain of the Port Delaware Bay or her representative and zone is limited in size. Sector Delaware Bay will issue maritime advisories widely accessible to users of the seacoast.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR part 165, applicable to safety zones on the navigable waterways. This zone will temporarily restrict vessel traffic

from transiting the Christina River along the shoreline of Wilmington, Delaware, in order to protect the safety of life and property on the waters while cargo offloading operations are conducted. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this 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 amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–1005, to read as follows:

§ 165.T05–1005 Safety Zone, Vessel Movement, Christina River; Wilmington, DE.

(a) *Location.* The following area is a safety zone: All waters of the Christina River in Wilmington, DE inside a boundary described as originating from 39°43′14″ N, 075°31′41″ W; northeasterly to 39°43′17″ N, 75°31′40″ W; then east to 39°43′15″ N, 075°31′47″ W; then southwesterly to the shoreline at 39°43′10″ N; 075°31′30″ W.

(b) *Enforcement period.* This rule is enforced for a 48 hour period while the M/V OCEAN FORCE is Mediterranean Moored, from 7 a.m. on January 18, 2014 until 7 p.m. on January 31, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

(c) *Regulations.* All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.33.

(1) All persons and vessels transiting through the Safety Zone must be authorized by the Captain of the Port or her representative.

(2) All persons or vessels wishing to transit through the Safety Zone must request authorization to do so from the Captain of the Port or her representative one hour prior to the intended time of transit.

(3) Vessels granted permission to transit must do so in accordance with the directions provided by the Captain of the Port or her representative to the vessel.

(4) To seek permission to transit the Safety Zone, the Captain of the Port or her representative can be contacted via Sector Delaware Bay Command Center (215) 271–4940.

(5) This section applies to all vessels wishing to transit through the Safety Zone except vessels that are engaged in the following operations: (i) Enforcing laws; (ii) servicing aids to navigation, and (iii) emergency response vessels.

(6) No person or vessel may enter or remain in a safety zone without the permission of the Captain of the Port;

(7) Each person and vessel in a safety zone shall obey any direction or order of the Captain of the Port;

(8) No person may board, or take or place any article or thing on board, any vessel in a safety zone without the permission of the Captain of the Port; and

(9) No person may take or place any article or thing upon any waterfront facility in a safety zone without the permission of the Captain of the Port.

(d) *Definitions.*

(1) *The Captain of the Port* means the Commander of Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on her behalf.

(2) *[Reserved]*

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the Safety Zone by Federal, State, and local agencies.

Dated: January 6, 2014.

K. Moore,

Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2014–01201 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–1050]

RIN 1625–AA87

Security Zone, Potomac and Anacostia Rivers; Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone encompassing certain waters of the Potomac River and Anacostia River. This action is necessary to safeguard persons and property, and prevent terrorist acts or incidents. This rule prohibits vessels and people from entering the security zone and requires vessels and persons in the security zone to depart the security zone, unless specifically exempt under the provisions in this rule or granted specific permission from the Coast Guard Captain of the Port Baltimore.

DATES: This rule is effective from January 28, 2014 until January 29, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–1050]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald L. Houck, at Sector Baltimore Waterways Management Division, Coast Guard; telephone 410–576–2674, email *Ronald.L.Houck@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. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a

notice of proposed rulemaking (NPRM) with respect to this rule because it is impractical and contrary to public interest to delay the effective date of this rule. The Coast Guard was unable to publish a NPRM and hold a comment period for this rulemaking due to the short time period between event planners notifying the Coast Guard of the event and publication of this security zone. As such, it is impracticable to provide a full comment period due to lack of time. Furthermore, delaying the effective date of this security zone would be contrary to the public interest given the high risk of injury and damage to the President, U.S. Capitol Building, high-ranking United States officials, and the public.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment, therefore, a 30-day notice period is impractical. Delaying the effective date would be contrary to the security zone's intended objectives of protecting the President, U.S. Capitol Building, high-ranking United States officials and the public, as it would introduce vulnerability to the maritime safety and security of the President, U.S. Capitol Building and high-ranking United States officials, as well as that of the general public.

B. Basis and Purpose

The President will address the nation on January 28, 2014. During this event, a gathering of high-ranking United States officials is expected to take place at the U. S. Capitol Building in Washington, DC, in close proximity to navigable waterways within the Captain of the Port's Area of Responsibility.

The Coast Guard has given each Coast Guard Captain of the Port the ability to implement comprehensive port security regimes designed to safeguard human life, vessels, and waterfront facilities while still facilitating the flow of commerce. The Captain of the Port Baltimore is establishing this security zone to protect the President, U.S. Capitol Building, high-ranking United States officials and the public, mitigate potential terrorist acts, and enhance public and maritime safety and security in order to safeguard life, property, and the environment on or near the navigable waters.

C. Discussion of the Final Rule

Through this regulation, the Coast Guard will establish a security zone. The security zone will be in effect from 4 p.m. on January 28, 2014 until 2 a.m. on January 29, 2014. The security zone will include all navigable waters of the Potomac River, from shoreline to shoreline, bounded on the north by the Francis Scott Key (U.S. Route 29) Bridge at mile 113.0, downstream to and bounded on the south between the Virginia shoreline and the District of Columbia shoreline along latitude 38°50'00''N, including the waters of the Georgetown Channel Tidal Basin; and all waters of the Anacostia River, from shoreline to shoreline, bounded on the north by the 11th Street (I–295) Bridge at mile 2.1, downstream to and bounded on the south by its confluence with the Potomac River (datum NAD 1983). This location is entirely within the Area of Responsibility of the Captain of the Port Baltimore, as set forth at 33 CFR 3.25–15.

This rule requires any unauthorized persons in the regulated area at the time this security zone is implemented to immediately proceed out of the zone. Except for vessels at berth, mooring, or at anchor, this rule temporarily requires all vessels in the designated security zone as defined by this rule to immediately depart the security zone. Entry into this security zone is prohibited, unless specifically authorized by the Captain of the Port Baltimore. U.S. Coast Guard personnel will be on-scene to prevent the movement of unauthorized persons into the zone. Federal, state, and local agencies may assist the Coast Guard in the enforcement of this rule. The Coast Guard will issue Notices to Mariners to further publicize the security zone and notify the public of changes in the status of the zone. Such notices will continue until the event is complete.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this security zone restricts vessel traffic through the affected area, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect. Given the time of year this event is scheduled, vessel traffic is expected to be minimal. In addition, notifications will be made to the maritime community so mariners may adjust their plans accordingly.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate or transit through or within the security zone during the enforcement period. The security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The security zone is of limited duration. Although the security zone will apply to the entire width of the Potomac and Anacostia Rivers, traffic may be allowed to pass through the zone with the permission of the Captain of the Port Baltimore. Additionally, given the time of year this event is scheduled, vessel traffic is expected to be minimal. Before the effective period of the security zone, maritime advisories will be widely available to the maritime community.

3. Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business

Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a temporary security zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. This rule involves establishing a temporary security zone.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this 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 amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. 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. Add § 165.T05–1050 to read as follows:

§ 165.T05–1050 Security Zone, Potomac and Anacostia Rivers; Washington, DC.

(a) *Location.* The following area is a security zone: (1) All waters of the Potomac River, from shoreline to shoreline, bounded on the north by the Francis Scott Key (U.S. Route 29) Bridge at mile 113.0, downstream to and bounded on the south between the Virginia shoreline and the District of Columbia shoreline along latitude 38°50′00″ N, including the waters of the Georgetown Channel Tidal Basin; and (2) all waters of the Anacostia River, from shoreline to shoreline, bounded on the north by the 11th Street (I–295) Bridge at mile 2.1, downstream to and bounded on the south by its confluence with the Potomac River. All coordinates refer to datum NAD 1983.

(b) *Regulations.* The general security zone regulations found in 33 CFR 165.33 apply to the security zone created by this temporary section, § 165.T05–1050.

(1) All persons are required to comply with the general regulations governing security zones found in 33 CFR 165.33.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. Vessels already at berth, mooring, or anchor at the time the security zone is implemented do not have to depart the security zone. All vessels underway within this security zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the security zone must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410–576–2693 or on

Marine Band Radio, VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his designated representative and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(4) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(c) *Definitions.* As used in this section:

Captain of the Port Baltimore means the Commander, U.S. Coast Guard Sector Baltimore, Maryland or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the security zone described in paragraph (a) of this section.

(d) *Effective period.* This rule is effective from 4 p.m. on January 28, 2014 until 2 a.m. on January 29, 2014.

(e) *Enforcement period.* This section will be enforced from 4 p.m. on January 28, 2014 until 2 a.m. on January 29, 2014.

Dated: January 6, 2014.

Kevin C. Kiefer,

Captain, U.S. Coast Guard, Captain of the Port Baltimore.

[FR Doc. 2014–01226 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0905]

RIN 1625–AA00

Safety Zone; Bone Island Triathlon, Atlantic Ocean; Key West, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Atlantic Ocean in Key West, Florida, during the Bone Island Triathlon on Saturday, January 25, 2014. The safety zone is necessary to provide for the safety of life on navigable waters during the event. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Key West or a designated representative.

DATES: This rule will be enforced from 7 a.m. until 10 a.m. on January 25, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0905]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email Marine Science Technician First Class Ian G. Bowes, U. S. Coast Guard Sector Key West Prevention Department, telephone (305) 292–8823, email *Ian.G.Bowes@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard published a Notice of Proposed Rulemaking on November 27, 2013. No comments were received. No public meeting has been requested.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 33 CFR 1.05–1, 6.04–1, 160.5; Department of Homeland Security Delegation No. 0170.1. On January 25, 2014, Questor Multisport, LLC. is hosting the Bone Island Triathlon. The event will be held on the waters of the Atlantic Ocean located south of Key West, Florida. Approximately 700 swimmers will be participating in the race. It is anticipated that at least 10 spectator vessels will be present during the races.

A safety zone is necessary to protect race participants, participant vessels, spectators, and the general public from the hazards associated with the event.

C. Discussion of the Final Rule

The safety zone encompasses certain waters of the Atlantic Ocean located south of Key West, Florida. The safety zone will be enforced from 7 a.m. until 10 a.m. on January 25, 2014. The safety zone consists of the following area: A race area, where all persons and vessels, except those persons and vessels participating in the event, are prohibited from entering, transiting, anchoring, or remaining. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the race area by contacting the Captain of the Port Key West by telephone at 305–292–8727, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the race area is granted by the Captain of the Port Key West or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Key West or a designated representative. The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) The safety zone will only be enforced for three hours; (2) vessel traffic in the area is expected to be

minimal during the enforcement period; (3) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Key West or a designated representative, they may operate in the surrounding area during the enforcement period; (4) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Key West or a designated representative; and (5) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Atlantic Ocean encompassed within the safety zone from 7:00 a.m. until 10:00 a.m. on January 25, 2014. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under Figure 2–1, paragraph (34)(g), of the Commandant Instruction. This rule involves establishing a temporary safety zone that will be enforced for a total of three hours. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 33 CFR 1.05–1, 6.04–1, 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T07–0905 to read as follows:

§ 165.T07–0905 Safety Zone; Bone Island Triathlon, Atlantic Ocean, Key West, FL.

(a) *Regulated Area.* All waters of the Atlantic Ocean located south of Key West encompassed within the following points: starting at Point 1 in position 24°32′49″ N, 81°47′19″ W; thence south to Point 2 in position 24°32′33″ N, 81°47′09″ W; thence northeast to Point 3 in position 24°33′00″ N, 81°45′44″ W; thence north to Point 4 in position 24°33′08″ N, 81°45′44″ W; thence southwest following the shoreline back to origin. All persons and vessels, except those persons and vessels participating in the event, are prohibited from entering, transiting through, anchoring in, or remaining within the race area. All coordinates are North American Datum.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Key West in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Key West or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Key West by telephone at (305) 292–8727, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Key West or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Key West or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date.* This rule is effective on January 25, 2014. This rule will be enforced from 7 a.m. until 10 a.m. on January 25, 2014.

Dated: January 9, 2014.

A.S. Young Sr.,

Captain, U.S. Coast Guard, Captain of the Port Key West.

[FR Doc. 2014–01207 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0675; FRL–9905–62–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Section 110(a)(2) Infrastructure Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of West Virginia pursuant to the Clean Air Act (CAA). Whenever new or revised National Ambient Air Quality Standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. The State of West Virginia has made a submittal addressing the infrastructure requirements for the 2010 nitrogen dioxide NAAQS.

DATES: This final rule is effective on February 21, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2013–0675. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, (215) 814–5787, or by email at *schmitt.ellen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of SIP Revision

On November 1, 2013 (78 FR 65593), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia proposing approval of West Virginia's December 13, 2012 submittal to satisfy several requirements of section 110(a)(2) of the CAA for the 2010 nitrogen dioxide NAAQS. The NPR proposed approval of the following infrastructure elements: CAA section 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof. EPA is taking separate action on the portions of section 110(a)(2)(C), (D)(i)(II), and (J) as they relate to West Virginia's prevention of significant deterioration (PSD) program and on section 110(a)(2)(E)(ii) as it relates to section 128 (State Boards). West Virginia did not submit section 110(a)(2)(I) which pertains to the nonattainment requirements of part D, Title I of the CAA, since this element is not required to be submitted by the 3-year submission deadline of section 110(a)(1), and will be addressed in a separate process.

The rationale supporting EPA's proposed rulemaking action, including the scope of infrastructure SIPs in general, is explained in the NPR and the technical support document (TSD) accompanying the NPR and will not be restated here. The TSD is available online at *www.regulations.gov,* Docket ID Number EPA–R03–OAR–2013–0675. No public comments were received on the NPR.

II. Final Action

EPA is approving West Virginia's SIP revision regarding the infrastructure

program elements specified in CAA section 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof, necessary to implement, maintain, and enforce the 2010 nitrogen dioxide NAAQS. EPA is taking separate rulemaking action on the portions of section 110(a)(2)(C), (D)(i)(II), and (J) as they relate to West Virginia's PSD program and section 110(a)(2)(E)(ii) as it relates to section 128 (State Boards). This rulemaking action does not include section 110(a)(2)(I) of the CAA which pertains to the nonattainment requirements of part D, Title I of the CAA, since this element is not required to be submitted by the 3-year submission deadline of section 110(a)(1), and will be addressed in a separate process.

III. Statutory and Executive Order Reviews

A. General Requirements

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 24, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, which approves the CAA section 110(a)(2) infrastructure requirements of West Virginia for the 2010 nitrogen dioxide NAAQS, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, nitrogen dioxide.

Dated: December 23, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry at the end of the table for Section 110(a)(2) Infrastructure Requirements for the 2010 nitrogen dioxide NAAQS. The amendments read as follows:

§ 52.2520 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Section 110(a)(2) Infrastructure Requirements for the 2010 nitrogen dioxide NAAQS.	Statewide	12/13/12	1/22/14 *[Insert Federal Register page number where the document begins and date].*	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof.

[FR Doc. 2014–01069 Filed 1–21–14; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0492; FRL–9905–63–Region–3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Infrastructure Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware pursuant to the Clean Air Act (CAA). Whenever new or revised national ambient air quality standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. The State of Delaware has made a submittal addressing the infrastructure requirements for the 2010 sulfur dioxide (SO_2) NAAQS.

DATES: This final rule is effective on February 21, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2013–0492. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by email at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary of SIP Revision

On October 24, 2013 (78 FR 63437), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware proposing approval of Delaware's May 29, 2013 SIP submittal to satisfy several requirements of section 110(a)(2) of the CAA for the 2010 SO_2 NAAQS. In the NPR, EPA proposed approval of the following infrastructure elements: Sections 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). The NPR does not include section 110(a)(2)(I), which pertains to the nonattainment planning requirements of part D, Title I of the CAA, since this element is not required to be submitted by the 3-year submission deadline of section 110(a)(1), and will be addressed in a separate process. The NPR also did not address section 110(a)(2)(D)(i)(I) of the CAA. In accordance with the *EME Homer City* decision from the United States Court of Appeals for the District of Columbia Circuit, EPA at this time is not treating the 110(a)(2)(D)(i)(I) SIP submission from Delaware as a required SIP submission.

See EME Homer City Generation, LP v. *EPA,* 696 F.3d 7 (D.C. Cir. 2012), *cert. granted,* 2013 U.S. LEXIS 4801 (2013). Unless the *EME Homer City* decision is reversed or otherwise modified by the Supreme Court, states such as Delaware are not required to submit section 110(a)(2)(D)(i)(I) SIPs until EPA has quantified their obligations under that section. Therefore, EPA will address the portion of Delaware's May 29, 2013 SIP submittal addressing section 110(a)(2)(D)(i)(I) in a separate action.

The rationale supporting EPA's proposed action, including the scope of infrastructure SIPs in general, is explained in the NPR and the technical support document (TSD) accompanying the NPR and will not be restated here. The TSD is available online at www.regulations.gov, Docket ID Number EPA–R03–OAR–2013–0492.

II. Final Action

EPA is approving as a revision to the Delaware SIP, Delaware's submittal which provides the basic program elements specified in sections 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) of the CAA, necessary to implement, maintain, and enforce the 2010 SO_2 NAAQS. This rulemaking action does not include approval of Delaware's submittal for sections 110(a)(2)(I) and 110(a)(2)(D)(i)(I), which EPA will address in separate actions.

III. Statutory and Executive Order Reviews

A. General Requirements

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 24, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to Delaware's section 110(a)(2) infrastructure elements for the 2010 SO_2 NAAQS may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: December 23, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart I— Delaware

■ 2. In § 52.420, the table in paragraph (e) is amended by adding an entry for Section 110(a)(2) Infrastructure Requirements for the 2010 SO_2 NAAQS at the end of the table to read as follows:

§ 52.420 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	*		* *	* *
Section 110(a)(2) Infrastructure Requirements for the 2010 SO_2 NAAQS.	Statewide	5/29/13	1/22/14 [*Insert Federal Register page number where the document begins and date*].	This rulemaking action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2014–01066 Filed 1–21–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of State Implementation Plans: Oregon

CFR Correction

■ In Title 40 of the Code of Federal Regulations, Part 52 (§§ 52.1019 to 52.2019), revised as of July 1, 2013, on page 765, in § 52.1970, paragraphs (c)(139)(ii)(C) introductory text, (1) and (2) are moved to (c)(139)(i)(C) introductory text, (1) and (2).

[FR Doc. 2014–01283 Filed 1–21–14; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2011–0028; FRL–9905–71–OAR]

RIN 2060–AR52

2013 Revisions to the Greenhouse Gas Reporting Rule and Final Confidentiality Determinations for New or Substantially Revised Data Elements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) published a final rule in the **Federal Register** on November 29, 2013. The final rule amended the Greenhouse Gas Reporting Rule to implement technical corrections, clarifying revisions, and other amendments to improve the quality and consistency of the data collected by the EPA, including amendments to the Reporting Rule's table of global warming potentials to revise the values for certain greenhouse gases. An error in the regulatory text is identified and corrected in this action.

DATES: This final rule is effective on January 22, 2014.

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: *GHGReportingRule@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA published a final rule document on November 29, 2013 (78 FR 71904) that amended the Greenhouse Gas Reporting Rule to implement technical corrections, clarifying revisions, and other amendments. One of the instruction headings was printed incorrectly in the **Federal Register**.

Therefore, this instruction heading is corrected in this notice.

Correction

In the final rule published in the **Federal Register** on November 29, 2013 (78 FR 71904), on page 71977, third column, instruction 102 is corrected to read: ''102. Table NN–2 to subpart NN is revised to read as follows:''.

List of Subjects 40 CFR Part 98

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

Dated: January 14, 2014.

Janet G. McCabe,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2014–01214 Filed 1–21–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0755; FRL–9402–8]

Dinotefuran; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation modifies existing time-limited tolerances established at 40 CFR 180.603 under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), for residues of dinotefuran in or on pome fruit and stone fruit by raising them from 1.0 ppm to 2.0 ppm. A document published in the **Federal Register** of November 9, 2012, which first established the tolerances in response to EPA's granting of an emergency exemption under Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on pome fruit and stone fruit. The previous tolerances were supported by surrogate residue data in pears. Additional residue data has been produced on peach indicating that residues may be higher than suggested by the residue data in pears. Review of the new data has concluded that the tolerance levels for pome and stone fruits should be increased to 2.0 ppm. Therefore, this regulation modifies the maximum permissible level for residues of dinotefuran in or on these commodities by raising them from 1.0 ppm to 2.0 ppm. The time-limited tolerances expire on December 31, 2015.

DATES: This regulation is effective January 22, 2014. Objections and requests for hearings must be received on or before March 24, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0755, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0755 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before March 24, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0755, by one of the following methods:

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

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with FFDCA sections 408(e) and 408(l)(6) of, 21 U.S.C. 346a(e) and 346a(1)(6), is modifying the time-limited tolerances for residues of dinotefuran, (RS)-1-methyl-2-nitro-3-((tetrahydro-3-furanyl)methyl)guanidine including its degradates DN, 1-methyl-3-(tetrahydro-3-furylmethyl)guanidine, and UF, 1-

methyl-3-(tetrahydro-3-furylmethyl)urea in or on Fruit, stone, Group 11, and Fruit, pome, Group 12 by revising to 2.0 parts per million (ppm). The current time-limited tolerances were first established for these crop groups at 1.0 ppm in a rule published in the **Federal Register** document on November 9, 2012. These modified time-limited tolerances expire on December 31, 2015.

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established or modified without providing notice or period for public comment. EPA does not intend for its actions on FIFRA section 18 related time-limited tolerances to set binding precedents for the application of FFDCA section 408 and the safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish or modify a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Dinotefuran on Pome and Stone Fruit and FFDCA Tolerances

Eight state lead agricultural agencies have requested and received emergency exemptions for the use of dinotefuran on pome and stone fruits to control the brown marmorated stink bug (BMSB) for the past two years. The states are: Delaware, Maryland, Michigan, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia. The States claimed that the abrupt increase and spread of damaging populations of BMSB, a recently introduced invasive species, resulted in an urgent and non-routine situation with significant economic losses of over 20% expected without the use of dinotefuran as an additional pest management tool.

After having reviewed the submissions, EPA determined that emergency conditions exist for these States, and that the criteria for approval of emergency exemptions are met. EPA has authorized specific exemptions under FIFRA section 18 for the use of dinotefuran on pome fruit and stone fruit for control of the BMSB in the eight states listed previously. Time-limited tolerances were established at 1.0 ppm in or on stone and pome fruits, previously, in connection with these actions. The tolerances were supported by surrogate residue data in pears. Since then, additional residue data has been produced in peach indicating that residues may be higher than suggested by the pear data. EPA has reviewed the new data and concluded that a tolerance level of 2.0 ppm is appropriate.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by raising the tolerances for residues of dinotefuran in or on pome fruit and stone fruit. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18.

Consistent with the need to move quickly on the emergency exemptions in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this modification of the initial tolerances without notice and opportunity for public comment as provided in FFDCA section 408(l)(6). Although these time-limited tolerances expire on December 31, 2015, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on pome fruit and stone fruit after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these time-limited tolerances were approved under emergency conditions, EPA has not made any decisions about whether dinotefuran meets FIFRA's registration requirements for use on pome fruit and stone fruit or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these time-limited tolerance decisions serve as a basis for registration of dinotefuran by a State for special local needs under FIFRA section 24(c). Nor do these tolerances by themselves serve as the authority for persons in any State other than those named previously in this notice to use this pesticide on the applicable crops under FIFRA section 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for dinotefuran, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure expected as a result of this emergency exemption use and the time-limited tolerances for residues of dinotefuran on pome fruit and stone fruit at 2.0 ppm. EPA's assessment of exposures and risks associated with these time-limited tolerances follows.

A. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each

toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.* A summary of the toxicological endpoints for dinotefuran used for human risk assessment is discussed in Unit III of the final rule published in the **Federal Register** of September 12, 2012 (77 FR 56133) (FRL–9359–6). These endpoints remain unchanged since that date.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to dinotefuran, EPA considered exposure under the time-limited tolerances as modified by this action as well as all existing dinotefuran tolerances in 40 CFR 180.603. EPA assessed dietary exposures from dinotefuran in food as follows:

i. *Acute and Chronic exposures.* Acute and chronic effects were identified for dinotefuran. In estimating acute and chronic dietary exposures, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance level residues for all commodities.

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

iii. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for dinotefuran. Tolerance level residues and 100 PCT were assumed for all food commodities.

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

Based on the First Index Reservoir Screening Tool (FIRST), Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and the Screening Concentration in Ground Water (SCI–GROW) models the estimated drinking water concentrations (EDWCs) of dinotefuran for acute exposures are estimated to be 269 parts per billion (ppb) for surface water and 4.9 ppb for ground water; and for chronic exposures for non-cancer assessments are estimated to be 253–257 ppb for surface water and 4.9 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure models. For acute dietary risk assessment, the water concentration value of 269 ppb was used to assess the dietary exposure contribution from drinking water. For chronic dietary risk assessment, the water concentration value of 257 ppb was used to assess the dietary exposure contribution from drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Dinotefuran is currently registered for the following uses that could result in residential exposures: Turf, ornamentals, vegetable gardens, pets, indoor aerosol sprays, and crack and crevice sprays. EPA assessed residential exposure using the following assumptions: Residential handler exposures were not assessed because no dermal or inhalation hazards were identified. For this same reason, postapplication residential dermal and inhalation exposure scenarios were not assessed. The Agency only considered post-application scenarios in which incidental oral exposures to children are expected. The oral exposures assessed included incidental oral exposures from turf, ant bait, ready to use garden trigger sprayers, dog and cat spot-on treatment, indoor broadcast, and indoor crack and crevice uses. Of all these scenarios, treated turf was determined to result in the highest levels of exposure. In assessing risks from residential exposures, EPA combines different residential sources of exposure that could reasonably be expected to occur on the same day. While it is possible for children to be exposed to indoor broadcast sprays on hard surfaces/carpets and to spot-on treatment to cats or dogs on the same day, these exposures have not been combined in this assessment because incidental oral hand-to-mouth exposure from treated turf is higher and still results in an MOE that does not exceed the Agency's Level of Concern (LOC). Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at: *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found dinotefuran to share a common mechanism of toxicity with any other substances, and dinotefuran does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that dinotefuran does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

C. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* In the pre-natal studies, no maternal or developmental toxicity was seen at the limit dose in rats. In rabbits, maternal toxicity manifested as clinical signs of neurotoxicity but no developmental toxicity was seen. In the reproduction study, parental and offspring toxicity was seen at the limit dose. Parental toxicity included decreased body weight gain, transient decrease in food consumption, and decreased thyroid weights. Offspring toxicity was characterized as decreased forelimb grip strength or hindlimb grip strength in the F1 pups. There was no adverse effect on reproductive performance at any dose. In the developmental neurotoxicity study, no maternal or offspring toxicity was seen at any dose including the limit dose.

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

i. The toxicity database for dinotefuran is complete.

ii. The neurotoxic potential of dinotefuran has been adequately considered. Dinotefuran is a neonicotinoid and has a neurotoxic mode of pesticidal action. Consistent with the mode of action, changes in motor activity were seen in repeat-dose studies, including the subchronic neurotoxicity study. Additionally, decreased grip strength and brain weight was observed in the offspring of a multi-generation reproduction study albeit at doses close to the limit dose. For these reasons, a developmental neurotoxicity study was required. Upon review of the developmental neurotoxicity study, it was concluded that there is no evidence of a unique sensitivity to the developing nervous system since no effects on neurobehavioral parameters were seen in the offspring at doses that approached or exceeded the limit dose.

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

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to dinotefuran from potential residues in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by dinotefuran.

D. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to dinotefuran will occupy 12% of the aPAD for Children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to dinotefuran from food and water will utilize 5.7% of the cPAD for Children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in the unit regarding residential use patterns, chronic residential exposure to residues of dinotefuran is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Dinotefuran is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to dinotefuran.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOE of 690 for Children 1–2 years old from hand to mouth exposure from treated turf, the scenario with the highest exposure. Because EPA's level of concern for dinotefuran is when MOEs are less than 100, this MOE is not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Intermediate-term exposure is not expected for the adult residential exposure pathways. Therefore, the intermediate-term aggregate risk would be equivalent to the chronic dietary exposure estimate. For children, intermediate-term incidental oral exposures could potentially occur from indoor uses. However, while it is possible for children to be exposed for longer durations, the magnitude of residues is expected to be lower due to dissipation or other activities. Since incidental oral short- and intermediate-term toxicity endpoints and points of departure are the same, the short-term aggregate risk estimate, which includes the highest residential exposure estimate (from turf), is protective of any risks from intermediate-term exposures.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, dinotefuran is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to dinotefuran residues. A more detailed discussion of the aggregate risk assessments and determination of safety may be found at *http://www.regulations.gov* in Docket ID number EPA–HQ–OPP–2012–0755, in the aggregate human risk assessment document for this action, entitled ''Dinotefuran ID#: 13MI04 Section 18 Emergency Exemption for Use on Pome Fruits and Stone Fruits in Michigan to Control Brown Marmorated Stink Bugs.''

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodologies (a high performance liquid chromatography/tandem mass spectrometry (HPLC/MS/MS) method for the determination of residues of dinotefuran, and the metabolites DN, and UF; an HPLC/ultraviolet (UV) detection method for the determination of residues of dinotefuran; and HPLC/MS and HPLC/MS/MS methods for the determination of DN and UF) are available to enforce the tolerance expression.

The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350;

telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established MRLs for dinotefuran in or on pome fruit and stone fruit.

VI. Conclusion

Therefore, the established time-limited tolerances for residues of dinotefuran, (RS)-1-methyl-2-nitro-3-((tetrahydro-3-furanyl)methyl)guanidine including its metabolites and degradates, in or on pome fruit and stone fruit are modified by raising them to 2.0 ppm. These tolerances expire on December 31, 2015.

VII. Statutory and Executive Order Reviews

This final rule modifies tolerances under FFDCA sections 408(e) and 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established in accordance with FFDCA sections 408(e) and 408(l)(6), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, but not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*)

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: January 10, 2014.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.603, revise the table in paragraph (b) to read as follows:

§ 180.603 Dinotefuran; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/ revocation date
Fruit, pome, Group 11	2.0	12/31/2015
Fruit, stone, Group 12	2.0	12/31/2015

* * * * *

[FR Doc. 2014–01079 Filed 1–21–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0829; FRL–9904–19]

Acetochlor; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of acetochlor in or on sugar beets and peanuts. Monsanto Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective January 22, 2014. Objections and requests for hearings must be received on or before March 24, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0829, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The

Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0829 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before March 24, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0829, by one of the following methods:

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

II. Summary of Petitioned-for Tolerance

In the **Federal Register** of January 16, 2013 (78 FR 3377) (FRL–9375–4), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2F8077) by Monsanto Company, 1300 I Street NW., Suite 450 East, Washington DC 20005. The petition requested that 40 CFR 180.470 be amended by establishing tolerances for residues of the herbicide, acetochlor, (2-chloro-2'-methyl-6'-ethyl-*N*-ethoxymethylacetanilide), and its metabolites containing either the 2-ethyl-6-methylaniline (EMA) or the 2-(1-hydroxyethyl)-6-methyl-aniline (HEMA) moiety, to be expressed as acetochlor equivalents, resulting from applications to soil or growing crops, in or on the following agricultural commodities: Beet, sugar, dried pulp at 0.5 parts per million (ppm); beet, sugar, molasses at 1.3 ppm; beet, sugar, roots at 0.3 ppm; beet, sugar, tops at 0.8 ppm; peanut at 0.2 ppm; peanut, hay at 6.0 ppm; and peanut, meal at 0.5 ppm. The petition also requested that EPA delete from 40 CFR 180.470(d) tolerances for indirect or inadvertent residues in beet, sugar, root at 0.05 ppm; and beet, sugar, tops at 0.05 ppm. That document referenced a summary of the petition prepared by Monsanto Company, the registrant, which is available in the docket, *http://www.regulations.gov*. A comment was received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA has increased the proposed tolerances for peanut, hay and decreased the proposed tolerances for sugar beet, molasses and tops, and peanut, meal. The reason for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

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

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

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable

subgroups of consumers, including infants and children.

Acetochlor has low acute toxicity by the oral, dermal, and inhalation routes of exposure and is minimally irritating to the eyes. A dermal irritation study indicates that it is a severe skin irritant. Acetochlor is also a strong dermal sensitizer.

Evidence of neurotoxicity was observed in acute and subchronic neurotoxicity screening studies in rats, developmental toxicity studies in rats, and subchronic and chronic studies in dogs. In addition to the nervous system, the major target organs affected in subchronic and chronic studies in rats, dogs, and mice exposed to acetochlor are the liver, thyroid (secondary to liver), kidney, testes, and erythrocytes. Species-specific target organs include the nasal olfactory epithelium in rats and the lungs in mice.

There is no evidence of increased qualitative or quantitative susceptibility of fetuses or offspring to acetochlor exposure in the developmental and reproduction toxicity studies in rats and rabbits. In two developmental toxicity studies in rats, fetal effects (increased early resorptions, post-implantation loss, and decreased fetal weight) occurred at doses that also resulted in maternal toxicity (mortality, clinical signs of toxicity, and decreased maternal body weight gain). In two rabbit developmental toxicity studies, there were no adverse fetal effects at the highest doses tested (190 milligrams/kilograms/day (mg/kg/day) and 300 mg/kg/day); whereas maternal toxicity (body weight loss) was seen at 190 mg/kg/day in one study. In three reproduction toxicity studies in rats, offspring effects (decreased pup weights in the first two studies; decreased pup weights, decreased F2 litter size at birth, and focal hyperplasia and polypoid adenomata in nasal epithelium of adult F1 offspring at study termination in the third study) occurred at the same or higher doses than those resulting in parental toxicity (decreased body weight or weight gain in the first two studies; focal hyperplasia and polypoid adenomata in nasal epithelium of adult F1 offspring at study termination in the third study). There was no evidence of reproductive toxicity observed at any dose tested in two of the three reproductive toxicity studies in rats. The third reproduction study in rats showed a decreased number of implantations at the highest dose tested of 216 mg/kg/day.

There was evidence of carcinogenicity in studies conducted with acetochlor in rats and mice. A 23-month mouse carcinogenicity study showed weak evidence for increased benign lung tumors in females, and a 78-week study showed weak evidence for increased benign lung tumors in males. The increases were considered equivocal, based on increases in benign tumors only, inconsistent dose-responses between the two studies, inconsistencies in the responses of males and females between the two studies, lack of pre-neoplastic lung lesions in the 23-month study (while the 78-week study showed an increase in bronchiolar hyperplasia), and the variable incidence of lung tumors known to occur in older mice.

Two carcinogenicity studies in rats showed an increase in nasal epithelial tumors and thyroid follicular cell tumors. Thyroid tumor incidence was relatively low, and there was evidence that the tumors were due to disruption of thyroid-pituitary homeostasis. There are acceptable mode of action data for the rat tumors (nasal olfactory epithelial tumors and thyroid follicular cell tumors) which are adequate to support a non-linear, margin of exposure (MOE), approach for assessment of cancer risk. The data show that, like the related compounds, alachlor and butachlor, tumor formation is dependent upon local cytotoxicity secondary to oxidative damage by a reactive quinone imine intermediate. The mechanistic data on nasal tumorigenesis of acetochlor in the rat, when considered together with the mutagenicity data on acetochlor and consistent findings in mechanistic and mutagenicity studies on the closely related compound alachlor, are considered adequate to demonstrate a cytotoxic, non-mutagenic mode of tumor induction.

Because a clear mode of action was demonstrated for the rat tumors, EPA based the cancer classification on the data from the mouse. Given the weakness of these data (benign lung tumors in male and female mice and histiocytic sarcomas in female mice), EPA has classified acetochlor as having ''Suggestive Evidence of Carcinogenic Potential'' and determined that linear quantification of carcinogenic potential would not be appropriate for the mouse tumors. The rat nasal tumors, with a point of departure (POD) of 10 mg/kg/day, are the most sensitive effect for cancer risk. The chronic population adjusted dose (cPAD), based on the no observed adverse effect level (NOAEL) of 2.0 mg/kg/day from the chronic dog study, will be protective of both non-cancer and cancer effects, including rat nasal tumors, thyroid tumors, and mouse tumors.

Specific information on the studies received and the nature of the adverse effects caused by acetochlor as well as the NOAEL and the lowest observed adverse effect level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document *Acetochlor Human Health Risk Assessment for Proposed New Uses of Acetochlor on Sugar Beet and Peanut* at pages 41–53 in docket ID number EPA–HQ–OPP–2012–0829.

B. Toxicological Points of Departure/Levels of Concern

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

A summary of the toxicological endpoints for acetochlor used for human risk assessment is shown in Table 1. of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR ACETOCHLOR FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/ safety factors	RfD, PAD, for risk assessment	Study and toxicological effects
Acute dietary (All populations) ..	NOAEL = 150 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = 1.5 mg/kg/day. aPAD = 1.5 mg/kg/day	Acute oral neurotoxicity in rats (MRID #45357501) LOAEL = 500 mg/kg/day based on decreased motor activity in females.
Chronic dietary (All populations)	NOAEL= 2.0 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.02 mg/kg/day. cPAD = 0.02 mg/kg/day	Chronic oral toxicity in beagle dogs (MRID #41565118) LOAEL = 10 mg/kg/day based on increased salivation and histopathology in the testes, kidney, and liver.
Cancer (all routes)	''Suggestive Evidence of Carcinogenic Potential''. The cRfD of 0.02 mg/kg/day will be protective of both non-cancer and cancer effects		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest observed adverse effect level. mg/kg/day = milligram/kilogram/day. NOAEL= no observed adverse effect level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to acetochlor, EPA considered exposure under the petitioned-for tolerances as well as all existing acetochlor tolerances in 40 CFR 180.470. EPA assessed dietary exposures from acetochlor in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for acetochlor. In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture's National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA assumed tolerance level residues and 100 percent crop treated (PCT) for all commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the U.S. Department of Agriculture's NHANES/WWEIA. As to residue levels in food, EPA assumed anticipated residues from field trial data and 100 PCT for all commodities.

iii. *Cancer.* Based on the data summarized in Unit III.A.; based on the results of carcinogenicity studies in rats and mice, EPA classified acetochlor as having ''Suggestive Evidence of Carcinogenic Potential'' but determined that the chronic risk assessment will be protective of both non-cancer and cancer effects. Therefore, a separate exposure assessment to evaluate cancer risk is unnecessary.

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

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of acetochlor for acute exposures are estimated to be 74.9 parts per billion (ppb) for surface water and 129.0 ppb for ground water. EDWCs of acetochlor for chronic exposures for non-cancer assessments are estimated to be 4.84 ppb for surface water and 82.6 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 129.0 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 82.6 ppb was used to assess the contribution to drinking water.

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

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

The chloroacetanilides have been evaluated by the Agency and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) as a related group of chemicals for this purpose. Acetochlor is included in a Cumulative Assessment Group of chloroacetanilide pesticides. For purposes of a cumulative risk assessment, it was determined that the common mechanism of toxicity group consists of alachlor, acetochlor, and butachlor. Butachlor is excluded from the group for risk assessment purposes at present because there are no registered uses or tolerances for this chemical in the U.S. The group was selected based on common endpoints of:

i. Nasal turbinate tumors in rats, and a known mechanism of toxicity for development of these tumors.

ii. Induction of hepatic uridine diphosphate-glucuronosyl transferase (UDPGT), which results in increased incidence of thyroid follicular cell tumors secondary to disruption of pituitary-thyroid homeostasis. Thyroid effects were not included in the final

cumulative assessment of the chloroacetanilide herbicides because they were determined to occur at excessively toxic dose levels, and therefore were not considered relevant to human risk assessment. Nasal tumors represent the most sensitive endpoint for both compounds.

An updated cumulative risk assessment of the chloroacetanilide pesticides acetochlor and alachlor conducted in April, 2007 provides an assessment of existing and new uses of those chemicals to date. Based on the most recent chloroacetanilide cumulative assessment group (CAG) cumulative risk assessment, cumulative risk is not of concern. A revised quantitative cumulative assessment was not conducted because the proposed amended use would not affect the cumulative risk results. Not only is acetochlor a very minor contributor to chloroacetanilide cumulative risk when compared to alachlor, but adding the use on sugar beets and peanuts will only have a minor impact on acetochlor exposure since only low residues occurred on sugar beet and peanut food commodities.

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* No increase in susceptibility was seen in developmental toxicity studies in rats and rabbits or in three multi-generation reproductive toxicity studies in rats. Toxicity to offspring was observed at dose levels which were the same or greater than those causing maternal or parental toxicity. Based on the results of developmental and reproductive toxicity studies, there is no concern for increased qualitative and/or quantitative susceptibility of the young following exposure to acetochlor.

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

i. The toxicity database for acetochlor is complete for the purpose of evaluating this tolerance petition.

ii. Evidence of neurotoxicity from exposure to acetochlor was observed in several oral studies. However, these effects were typically observed at high doses. The points of departure selected for risk assessment are protective of the potential neurotoxicity observed in the database.

iii. There is no evidence that acetochlor results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study. No increase in susceptibility was seen in developmental toxicity studies in rats and rabbits or in three multi-generation reproductive toxicity studies in rats. Toxicity to offspring was observed at dose levels which were the same or greater than those causing maternal or parental toxicity. Based on the results of developmental and reproductive toxicity studies, there is no concern for increased qualitative and/or quantitative susceptibility following exposure to acetochlor.

iv. There are no residual uncertainties identified in the exposure databases. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to acetochlor in drinking water. The acute dietary exposure analysis used tolerance level residues and 100 PCT. The chronic dietary exposure analysis used field trial residues and 100 PCT. These assessments will not underestimate the exposure and risks posed by acetochlor.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* In examining acute aggregate risk, the only pathway of exposure relevant to the acute time frame is dietary exposure. Therefore, the acute aggregate risk is comprised of exposures to acetochlor residues in food and drinking water and is equivalent to the acute dietary risk estimates. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to acetochlor will occupy 1.6% of the aPAD for all infants (< 1 year old), the population group receiving the greatest exposure.

2. *Chronic risk.* In examining chronic aggregate risk, the only pathway of exposure relevant to the chronic time frame is dietary exposure. Therefore, the chronic aggregate risk is comprised of exposures to acetochlor residues in food and drinking water and is equivalent to the chronic dietary risk. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to acetochlor from food and water will utilize 26% of the cPAD for all infants (< 1 year old), the population group receiving the greatest exposure. There are no residential uses for acetochlor.

3. *Short- and intermediate-term aggregate risk.* Short-term and intermediate-term aggregate exposure take into account short-term or intermediate-term residential exposure plus chronic exposure from food and water (considered to be a background exposure level). Acetochlor is not registered for any use patterns that would result in residential exposure. Therefore, the short-term or intermediate-term aggregate risk is the sum of the risk from exposure to acetochlor through food and water and will not be greater than the chronic aggregate risk.

4. *Aggregate cancer risk for U.S. population.* The Agency has concluded that assessments using a non-linear approach (e.g. a chronic RfD-based approach) will adequately protect for all chronic toxicity, including carcinogenicity that could result from exposure to acetochlor. Chronic aggregate risk estimates are below the Agency's level of concern, therefore, cancer risk is also below the Agency's level of concern.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

An Enforcement Analytical Method is available to enforce the proposed tolerances. The method is a high performance liquid chromatography/oxidative coulometric electrochemical detector (HPLC/OCED) method and is listed as Method I in the Pesticide

Analytical Manual (PAM) Vol. II (§ 180.470).

B. International Residue Limits

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

The Codex has not established an MRL for acetochlor.

C. Response to Comments

EPA received one comment from an anonymous citizen objecting to the presence of any pesticide residues on food. The Agency understands the commenter's concerns and recognizes that some individuals believe that pesticides should be banned on agricultural crops. However, the existing legal framework provided by section 408 of the FFDCA states that tolerances may be set when persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute. This citizen's comment appears to be directed at the underlying statute and not EPA's implementation of it; the citizen has made no contention that EPA has acted in violation of the statutory framework.

D. Revisions to Petitioned-for Tolerances

The requested tolerance levels for residues of acetochlor on the raw agricultural commodities beet, sugar, tops, and peanut, hay were changed as a result of the Organisation for Economic Cooperation and Development (OECD) Tolerance Calculation Procedures. Tolerance proposals for the processed commodities beet, sugar, molasses and peanut, meal, were changed as a result of the calculation based on the highest average field trial residue multiplied by the average processing factor.

V. Conclusion

Therefore, tolerances are established for residues of acetochlor, (2-chloro-2′-methyl-6′-ethyl-*N*-ethoxymethylacetanilide), including its metabolites and degradates, on beet, sugar, dried pulp at 0.50 ppm, beet, sugar, molasses at 0.80 ppm, beet, sugar, roots at 0.30 ppm, beet, sugar, tops at 0.70 ppm, peanut at 0.20 ppm, peanut, hay at 7.0 ppm, and peanut, meal at 0.25 ppm; and to delete from 40 CFR 180.470(d) tolerances for indirect or inadvertent residues in beet, sugar, root at 0.05 ppm, and beet, sugar, tops at 0.05 ppm because they will now be covered under the sugar beet tolerances from direct application to the crop.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: January 10, 2014.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

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

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

■ 2. In § 180.470:

■ a. Add alphabetically the commodities to the table in paragraph (a).

■ b. Remove the following commodities in the table in paragraph (d) ''Beet, sugar, root'' and ''Beet, sugar, tops.''

The additions read as follows:

§ 180.470 Acetochlor; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Beet, sugar, dried pulp	0.50
Beet, sugar, molasses	0.80
Beet, sugar, roots	0.30
Beet, sugar, tops	0.70
* * * * *	
Peanut	0.20
Peanut, hay	7.0
Peanut, meal	0.25
* * * * *	

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[FR Doc. 2014–01183 Filed 1–21–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2013–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Venango County, Pennsylvania (All Jurisdictions) Docket No.: FEMA–B–1127			
Allegheny River	Approximately 860 feet upstream of I–80	+880	Borough of Emlenton.
	At the Sandy Creek confluence	+949	Township of Clinton, Township of Richland, Township of Rockland, Township of Scrubgrass, Township of Victory.
East Sandy Creek	Approximately 460 feet upstream of the Allegheny River confluence.	+961	Township of Rockland.
	Approximately 1,000 feet upstream of the Allegheny River confluence.	+961	
Sugar Creek	Approximately 0.79 mile downstream of Bradleytown Road.	+1201	Township of Plum.
	Approximately 0.78 mile downstream of Bradleytown Road.	+1201	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Borough of Emlenton
Maps are available for inspection at the Borough Building, 511 Hill Street, Emlenton, PA 16373.

Township of Clinton
Maps are available for inspection at the Clinton Township Building, 123 Donaldson Road, Kennerdell, PA 16374.

Township of Plum
Maps are available for inspection at the Plum Township Building, 2360 Sunville Road, Cooperstown, PA 16317.

Township of Richland
Maps are available for inspection at the Richland Township Building, 1740 Rockland Nickleville Road, Emlenton, PA 16373.

Township of Rockland
Maps are available for inspection at the Rockland Township Building, 1115 Rockland Township Road, Kennerdell, PA 16374.

Township of Scrubgrass
Maps are available for inspection at the Scrubgrass Township Office, 4976 Emlenton-Clintonville Road, Emlenton, PA 16373.

Township of Victory
Maps are available for inspection at the Victory Township Municipal Building, 2794 Old Route 8, Polk, PA 16342.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Date: December 18, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–01151 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial change.

DATES: *Effective* January 22, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Manuel Quinones, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6088; facsimile 571–372–6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS as follows:

1. Revise 225.1101 to correct the e–CFR.

2. Revise 252.225–7000 and –7001 to correct the e–CFR.

3. Revise 252.225–7018 to correct typographical error.

4. Revise 252.225–7021 to correct the e–CFR.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 225—FOREIGN ACQUISITION

225.1101 [Amended]

■ 2. Section 225.1101, paragraphs 10(i)(A) and 10(i)(B), are amended by—

■ a. In paragraph (10)(i)(A), by removing ''$100,000'' and adding ''$79,507, except if the acquisition is of end products in support of operations in Afghanistan, use with its Alternate II'' in its place.

■ b. In paragraph (10)(i)(B), by removing ''$79,507'' and adding ''$79,507, except if the acquisition is of end products in support of operations in Afghanistan, use with its Alternate III'' in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Section 252.225–7000 is amended by—

■ a. Revising the section heading to read as set forth below;

■ b. Removing the date ''(JUN 2012)'' and adding ''(JAN 2014)'' in its place; and

■ c. In paragraph (a), removing the word ''Act''.

252.225–7000 Buy American—Balance of Payments Program Certificate.

* * * * *

■ 4. Section 252.225–7001 is amended by—

■ a. Revising the section heading to read as set forth below;

■ b. In Alternate I, removing ''(OCT 2011)'' and adding ''(JAN 2014)'' in its place.

■ c. In paragraph (c) of Alternate I, removing ''Buy American Act Balance of Payments'' and adding ''Buy American—Balance of Payments'' in its place.

252.225–7001 Buy American and Balance of Payments Program.

* * * * *

252.225–7018 [Amended]

■ 5. Section 252.225–7018, paragraphs (d)(4)(ii) and (d)(5)(ii), are amended by removing ''(c)(4)(i)'' and adding ''(d)(4)(i)'' in its place.

252.225–7021 [Amended]

■ 6. Section 252.225–7021 is amended by—

■ a. In Alternate II, removing the clause date ''(DEC 2010)'' and adding ''(OCT 2011)'' in its place.

■ b. In paragraph (a) of Alternate II, removing ''(a)(14)'' and adding ''(a)'' in its place, and removing the number ''(15)'' preceding the definition of ''South Caucasus/Central and South Asian (SC/CASA) state end product''.

[FR Doc. 2014–01050 Filed 1–21–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 385 and 386

[Docket No. FMCSA–2011–0321]

RIN 2126–AB42

Patterns of Safety Violations by Motor Carrier Management

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: FMCSA amends its regulations to enable the Agency to suspend or revoke the operating authority registration of for-hire motor carriers that show egregious disregard for safety compliance, permit persons who have shown egregious disregard for safety compliance to exercise controlling influence over their operations, or operate multiple entities under common control to conceal noncompliance with safety regulations. These amendments implement section 4113 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), as amended by section 32112 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), and are designed to enhance the safety of commercial motor vehicle (CMV) operations on our nation's highways.

DATES: Effective February 21, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Juan Moya, Transportation Specialist, Enforcement Division, Federal Motor Carrier Safety Administration, telephone: 202–366–4844; email: *juan.moya@dot.gov.* If you have questions on the docket, call Ms. Barbara Hairston, Docket Operations, telephone 202–366–3024.

SUPPLEMENTARY INFORMATION:

Abbreviations/Acronyms

Advocates for Highway and Auto Safety Advocates
American Trucking Associations ATA
Amalgamated Transit Union ATU
Commercial Motor Vehicle CMV
FedEx Corporation FedEx
Federal Motor Carrier Safety Administration FMCSA
Hazardous Materials Safety Permits HMSP
International Brotherhood of Teamsters IBT
Interstate Commerce Commission ICC
Institute of Makers of Explosives IME
Moving Ahead for Progress in the 21st Century Act MAP–21
Motor Carrier Safety Advisory Committee MCSAC
Motor Carrier State Assistance Program MCSAP
National Ground Water Association NGWA
Notice of Proposed Rulemaking NPRM
North American Transportation Consultants, Inc. NATC
Owner-Operator Independent Drivers Association, Inc. OOIDA
Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users SAFETEA–LU
Secretary of Transportation Secretary
Transportation Intermediaries Association TIA
Truck Safety Coalition TSC
Transportation Trades Department, AFL–CIO TTD
United Motorcoach Association UMA
Werner Enterprises, Inc. Werner

Executive Summary

Purpose and Summary of the Major Provisions

This rule enables FMCSA to suspend or revoke the operating authority registration of for-hire motor carriers that show egregious disregard for safety compliance, permit persons who have shown egregious disregard for safety compliance to exercise controlling influence over their operations, or operate multiple entities under common control to conceal noncompliance with safety regulations. Congress directed the Agency to implement this rule because it recognized the danger that carriers seeking to evade compliance with FMCSA's regulation pose to the motoring public. The rule establishes a two-part framework under which the Agency first determines whether a motor carrier has failed to comply with FMCSA's safety regulations or has attempted to conceal such noncompliance. If a motor carrier meets this initial threshold, the Agency then evaluates the motor carrier's conduct to determine whether the motor carrier has engaged in a pattern or practice of safety violations or is using other entities under common control to avoid compliance or mask the noncompliance. The rule establishes factors for the

Agency to consider when making these determinations and provides for administrative review. If the Agency ultimately determines that the motor carrier has engaged in such conduct, the carrier may have its operating authority registration suspended or revoked and may be subject to civil or criminal penalties.

Benefits and Costs

FMCSA assessed the potential costs associated with this rule. These costs were found to be economically insignificant. Further discussion of this topic is covered in the Rulemaking Analyses section of this final rule.

Background

Implementation of this rule enables the Agency to suspend or revoke the operating authority registration of motor carriers that show egregious disregard for safety compliance, permit persons who have shown egregious disregard for safety compliance to exercise controlling influence over their operations or operate multiple entities under common control to conceal noncompliance with safety regulations. Motor carriers that engage in such conduct may face suspension or revocation of their operating authority registration. FMCSA acknowledges that loss of operating authority registration is a significant penalty. This rule is necessary and appropriate, however, to address motor carriers that engage in a pattern or practice of willfully violating safety regulations or forming new entities or affiliate relationships to avoid compliance or mask or otherwise conceal noncompliance.

FMCSA has determined that each year a small number of motor carriers have attempted to avoid regulatory compliance or mask or otherwise conceal noncompliance by submitting new applications for registration, often under a different name, to continue operations after being placed out of service or to avoid other negative consequences of non-compliant behavior including a poor safety history. Motor carriers and individuals do this for a variety of reasons that include avoiding payment of civil penalties, circumventing denial of operating authority registration based on a determination that they are not willing or able to comply with the applicable statutes or regulations, or avoiding a negative compliance history. Other motor carriers attempt to avoid compliance, or mask or otherwise conceal noncompliance, by creating or using an affiliated company under common operational control. They shift customers, vehicles, drivers, and other operational activities to one of the affiliated companies when FMCSA places one of the other commonly controlled companies out of service.

On August 8, 2008, a fatal bus crash occurred in Sherman, Texas, highlighting the danger posed by motor carriers and other persons who avoid regulatory compliance or mask or otherwise conceal noncompliance. Seventeen motorcoach passengers died, and the driver and 38 other passengers received minor-to-serious injuries. The investigations conducted by FMCSA and the National Transportation Safety Board revealed that the motor carrier was operating without authority, was a reincarnation of another bus company that had been recently placed out of service for safety violations, and that both companies were under the control of the same person. FMCSA determined that the companies' flagrant disregard for safety under this person's control demonstrated a hazard to the safety of the motoring public.

Based on these findings, FMCSA instituted a vetting process for for-hire passenger and household goods carriers that involves a comprehensive review of registration applications to determine whether the applicants are reincarnations or affiliates of other motor carriers with negative compliance histories or are otherwise not willing and able to comply with the applicable regulations. Although the vetting process was a significant improvement to the previous registration review and regulatory compliance process, it is not a complete solution to the problem of regulatory avoidance because it does not impose sanctions, and, therefore, deter, the motor carriers or individuals who engage in or condone egregious disregard for safety compliance.

The Sherman crash is but one example that demonstrates how the practice of avoiding compliance or masking or otherwise concealing noncompliance to circumvent Agency enforcement action or to avoid a negative safety compliance history creates an unacceptable risk of harm to the public, resulting in the continued operation of at-risk carriers and impeding FMCSA's ability to execute its safety mission. This rule will help address these problems by providing a significant enforcement tool that allows the Agency to suspend or revoke the operating authority registration of motor carriers that show egregious disregard for safety compliance, permit persons who have shown egregious disregard for safety compliance to exercise controlling influence over their operations or operate multiple entities under common control to conceal noncompliance with safety regulations.

Section 31135 of title 49, United States Code, originally enacted as § 4113 of SAFETEA–LU (Pub. L. 109–59, 119 Stat. 1144), and subsequently amended by § 32112 of MAP–21 (Pub. L. 112–141, 126 Stat. 405), authorizes FMCSA to withhold, suspend, amend, or revoke the operating authority registration of a motor carrier if it or any person has engaged in a pattern or practice of avoiding compliance, or concealing noncompliance with regulations governing CMV safety prescribed under 49 U.S.C., Chapter 311, subchapter III. That section, as amended, also permits FMCSA to revoke the individual operating authority registration of any officer of a motor carrier that engages in or has engaged in a pattern or practice of, or assisted in avoiding compliance, or masking or otherwise concealing noncompliance while serving as an officer of a motor carrier. FMCSA is required to issue standards to implement the authority granted in § 31135.

To assist the Agency in developing those standards, FMCSA tasked the Motor Carrier Safety Advisory Committee (MCSAC) with identifying concepts that FMCSA should consider. On June 21, 2011, the MCSAC issued a number of recommendations, some of which formed the foundation for this rule. These recommendations include the concepts that a pattern is both widespread and continuing over time, involves more than isolated violations, and does not require a specific number of violations. The Agency also embraced the idea that FMCSA would have to exercise discretion to identify those motor carriers whose officers have shown egregious disregard for safety compliance.

Legal Basis for the Rulemaking

The FMCSA has authority, delegated by the Secretary of Transportation (Secretary) under 49 CFR 1.87, to establish the minimum safety standards governing the operation and equipment of a motor carrier operating in interstate commerce (49 U.S.C. 31136(a) and 31502(b)). Also, as amended by section 4114 of SAFETEA–LU, 49 U.S.C. 31144(a) requires that the Secretary determine whether an owner or operator is fit to safely operate CMVs; periodically update the safety determinations of motor carriers; and prescribe, by regulation, penalties for violations of applicable commercial safety fitness requirements.

Section 31135 of title 49, United States Code, was originally enacted as part the 1994 Recodification Act (Pub.

L. 103–272, 108 Stat. 745). It was subsequently amended as a part of § 4113 of SAFETEA–LU, and then again by § 32112 of MAP–21. Section 31135, as amended, requires employers and employees to comply with FMCSA's safety regulations that apply to the employees' and the employers' conduct. It prohibits motor carriers from using common ownership, common management, common control or common familial relationships to avoid compliance or mask or otherwise conceal noncompliance, or a history of noncompliance. It also authorizes FMCSA to withhold,[1] suspend, amend, or revoke the operating authority registration of a motor carrier if it or any person has engaged in a pattern or practice of avoiding compliance, or concealing noncompliance with regulations governing CMV safety prescribed under 49 U.S.C., Chapter 311, subchapter III. FMCSA may suspend, amend, or revoke the individual registration of an officer of a motor carrier who has engaged in a pattern or practice of, or assisted in, avoiding compliance or masking or otherwise concealing noncompliance while serving as an officer of such motor carrier. FMCSA was required to establish standards implementing § 31135 through rulemaking.

FMCSA relies on 49 U.S.C. 13902, 13905, 31134, and 31135 for the authority and procedures to suspend and revoke operating authority registration in this rule. The Motor Carrier Act of 1935 (Pub. L. 74–255, 49 Stat. 543) authorized the Interstate Commerce Commission (ICC) to issue operating authority registration to motor carriers, brokers, and freight forwarders subject to its jurisdiction and to suspend or revoke such operating authority registration for willful failure to comply with applicable statutes and regulations. The ICC Termination Act of 1995 (Pub. L. 104–88, 109 Stat. 803) transferred this authority to the Secretary by enacting 49 U.S.C. 13902 (establishing standards for issuing operating authority registration) and 13905 (establishing standards and procedures for suspending and revoking operating authority registration). Section 4113 of SAFETEA–LU amended 49 U.S.C. 13902 to authorize FMCSA to deny an application for operating authority registration of a for-hire motor carrier if the motor carrier is not willing and able to comply with the duties of employers and employees established under 49 U.S.C. 31135. In addition, § 32105 of MAP–21 created new 49 U.S.C. 31134 establishing requirements for motor carriers seeking to obtain operating authority registration and USDOT numbers. This new section authorizes FMCSA to withhold, suspend, or revoke operating authority registration for failing to disclose, among other things, common management or control with any other person or applicant for operating authority registration or any other person or applicant for operating authority registration that has been determined to be unfit, unwilling or unable to comply with the requirements for registration. The changes enacted as a part of MAP–21 were effective October 1, 2012.

[1] Although MAP–21 includes authority for FMCSA to withhold operating authority registration under § 31135, FMCSA has elected not to incorporate that authority into this rule. The Agency has existing authority to withhold operating authority registration and will continue to exercise this authority under its current registration process.

Discussion of Comments

FMCSA published a notice of proposed rulemaking (NPRM) on November 13, 2012 (77 FR 67613) and received 24 comments in response. The commenters included: Advocates for Highway and Auto Safety (Advocates), American Trucking Associations (ATA), Amalgamated Transit Union (ATU), FedEx Corporation (FedEx), GG Regulatory Consulting (GGRC), International Brotherhood of Teamsters (IBT), Institute of Makers of Explosives (IME), National Ground Water Association (NGWA), New York State Department of Motor Vehicles (NY DMV), North American Transportation Consultants, Inc. (NATC), Owner-Operator Independent Drivers Association (OOIDA), Transportation Intermediaries Association (TIA), Truck Safety Coalition (TSC), Transportation Trades Department AFL–CIO (TTD), United Motorcoach Association (UMA), Werner Enterprises, Inc. (Werner) and seven individuals.

Several commenters fully supported the proposal, while others stated that they agreed with the general goals of the proposal, but not with the methods of accomplishing those goals. A majority of the commenters requested clarifications to make the rule easier to understand and implement. Several commenters stated that the Agency went too far in some aspects of the rule, and that the rule would have a broader application than they believe FMCSA intended. Still others questioned how the new rule would fit within FMCSA's existing enforcement programs. FMCSA responds to those comments, organized by subject, below.

General Comments

The New York State Department of Motor Vehicles (NY DMV) and five individuals expressed general support for the rule while one individual expressed general opposition. GG Regulatory Consulting (GGRC) expressed support for North American Transportation Consultants, Inc.'s (NATC) comments and adopted them as its own.

Comment Period

NATC requested that the Agency either extend the comment period or withdraw the rule so that FMCSA can address the commenters' issues and improve the rule.

FMCSA Response. The Agency will not extend the comment period or withdraw the NPRM. The Agency provided a 60-day comment period during which it received 24 comments from interested members of the public. NATC did not identify any information suggesting that interested would-be commenters were unable to submit comments during this time frame or explaining why this rule in particular should have had a longer comment period than the standard 60 days. Moreover, the purpose of notice and comment rulemaking is to provide an opportunity for interested members of the public to submit their views on the proposed Agency action and for the Agency to make adjustments, if warranted, in response to those comments. As a part of this process, FMCSA carefully considered all comments received, including those submitted by NATC, and made appropriate adjustments, as described below.

Applicability/Targeted Population

Comment. NATC commented that the rule creates a new class of people subject to regulation by including the conduct of ''any person'' as a trigger and that this exceeds the Agency's authority. But NATC also commented that 49 CFR 390.13 already regulates the same conduct, rendering this rule redundant and in violation of an unspecified executive order. In addition, NATC commented that the rule should be changed to ''increase the specific action which should be taken against both the carrier and individual manage/ownership personnel who violate existing regulations.''

FMCSA Response. Congress charged FMCSA with regulating the conduct of motor carriers to include the conduct of ''any person, however designated, exercising controlling influence over the operations of a motor carrier'' (49 U.S.C. 31135(d)(2)). By using the conduct of ''any person'' with controlling influence to trigger enforcement action against motor carriers, FMCSA implements that

authority Congress specifically authorized—and directed—the Agency to exercise.

FMCSA disagrees with NATC's comment that this final rule is redundant or that the substance is covered by existing § 390.13. Section 390.13 provides that ''No person shall aid, abet, encourage or require a motor carrier or its employees to violate the rules of this chapter.'' Unlike today's final rule, § 390.13 places a direct prohibition on individual conduct. Moreover, it does not address Congress's mandate that the Agency penalize motor carriers for individual conduct that rises to the level of a pattern or practice of safety violations.

Although NATC objected to creating a new class of people subject to FMCSA's jurisdiction, it nonetheless suggested that the Agency target that same class of people with enhanced penalties for violations of existing regulations. But the final rule is based on a specific congressional mandate: the Agency is directed to revoke or suspend the registration of motor carriers, not take action against individuals, except where those individuals are registered motor carriers. As a result, FMCSA did not make NATC's suggested changes.

Because NATC did not identify the Executive Order it alleged the Agency to be in violation of and why, FMCSA cannot respond.

Comment. NATC commented that 49 U.S.C. 31134 was established to screen motor carriers attempting to obtain operating authority, and that FMCSA is incorrectly attempting to apply that standard to carriers holding existing authority.

FMCSA Response. FMCSA disagrees that Congress intended for this rule to apply only prospectively to motor carriers seeking new operating authority. Although § 31134 contains provisions authorizing the Agency to withhold, revoke or suspend registrations, neither that section nor § 31135, which specifically authorizes FMCSA to revoke or suspend registration based on patterns or practices of safety violations, limits FMCSA's authority to take action against existing registrants.

Comment. Werner Enterprises, Inc. (Werner) commented that carriers with an excellent record and culture of safety and compliance could be targeted for hiring an officer with a history of noncompliance. Werner further commented that a carrier could be punished without having done anything to affect its safety rating negatively.

FMCSA Response. This rule will target only the worst actors in the industry. As a practical matter, FMCSA finds it highly unlikely that a motor carrier with an excellent safety compliance record would place someone with a history of egregious disregard for safety compliance in a position of controlling influence over operations. But, in accordance with Congress's direction, the Agency has determined that it is appropriate to revoke or suspend the registration of motor carriers that permit such individuals to exercise control over operations. In discharging its mission to reduce crashes, injuries and fatalities, the Agency believes that it is not appropriate to wait until a crash or other adverse safety event occurs before taking action. To the contrary, the intent of this rule, as mandated by Congress, is to prevent non-compliant actors from circumventing their negative safety compliance records, and thus preventing crashes, injuries and fatalities from occurring in the first place.

In the event that a motor carrier innocently places such a person in a position of controlling influence, the rule provides safeguards for the carrier. This rule requires that the Agency provide notice to the carrier of the Agency's intent to suspend or revoke and gives the carrier an opportunity to respond, which could include, among other things, submission of mitigating information showing that the person is not a safety risk, did not engage in the suspected conduct or has been removed from a position of controlling influence. But this does not mean that submission of mitigating information about a particular officer would necessarily be dispositive. If a motor carrier's safety management controls were so inadequate that placing the officer in a position of controlling influence would be just a symptom of a pattern or practice of safety violations, submitting mitigating information about a particular officer might not be sufficient.

Comment. The International Brotherhood of Teamsters (IBT) commented in support of the rule and suggested expanding the Agency's vetting process to include property-carrying and hazardous materials motor carriers. NATC recommended extending the Agency's vetting program to all motor carriers requesting operating authority registration and suggested that all registrants be re-vetted every 5–10 years.

FMCSA Response. FMCSA considers its vetting program to be an important tool in discharging its safety mission. The Agency does not believe that this rule is the appropriate vehicle for the expansion of that program. FMCSA will, however, take these comments under advisement and consider them in future vetting initiatives.

Comment. IBT suggested that the Agency take enforcement action against drivers in the port/drayage sector of the motor carrier industry.

FMCSA Response. Members of the industry in the port/drayage sector, including drivers, could be subject to enforcement if they meet the criteria established under this rule.

Comment. Transportation Intermediaries Association (TIA) suggested expanding the scope of the rule to include those entities that engage in unlawful brokerage activities. Similarly, Owner-Operator Independent Drivers Association, Inc. (OOIDA) suggested expanding the rule to reach brokers and freight forwarders that reincarnate or use affiliated entities to avoid safety compliance.

FMCSA Response. In accordance with Congress's mandate, this rule is limited to patterns or practices of *safety* violations. See 49 U.S.C. 31135(a), (b)(1) and (b)(2). The *commercial* regulations at 49 CFR parts 360 and 366–379, including provisions applicable to brokers and freight forwarders, are not based on FMCSA's safety jurisdiction (49 U.S.C., Chapter 311, subchapter III and 49 CFR parts 380–387 and 390–398) and, as a result, those regulations are outside the scope of this rulemaking. Brokers and freight forwarders that also operate CMVs, however, do fall under FMCSA's safety jurisdiction, and if such entities reincarnate or use affiliated entities to avoid compliance with safety regulations, then they too are covered under this rule.

Comment. NATC asked whether a person not required to register under FMCSA's regulations constitutes a motor carrier for the purposes of this rule.

FMCSA Response. Any entity registered under 49 U.S.C. 13902, 49 CFR part 365, and 49 CFR part 368 is a motor carrier for the purposes of this rule. To eliminate any confusion over the applicability of this rule, FMCSA amended the regulatory text to state explicitly that any entity *registered* or *required to register* is subject to this rule.

Comment. United Motorcoach Association (UMA) commented that FMCSA should establish a ''venue'' for motor carriers to disclose when they are acquiring assets of a company placed out of service so that they are not considered to be reincarnating.

FMCSA Response. Carriers currently may report these transactions to FMCSA and should file an updated MCS–150, as appropriate. It is important to note, however, that this rule does not prohibit

legitimate business transactions involving the sale and purchase of assets. It applies to carriers who attempt to avoid regulatory requirements or enforcement action by creating a new identity or affiliate relationship to mask the true nature of their identity. If a carrier is placed out of service and elects to sell its assets rather than take the corrective action necessary to resume operation, and there is no common ownership or operational control between the out of service carrier and the purchasing carrier, then this rule would not apply. FMCSA recently initiated a separate regulatory initiative on the related issue of the lease and interchange of passenger-carrying CMVs. *See Lease and Interchange of Vehicles; Motor Carriers of Passengers,* Notice of Proposed Rulemaking, Docket No. FMCSA–2012–0103, 78 FR 57822 (Sept. 20, 2013).

Regulatory Noncompliance

Comment. OOIDA and Transportation Trades Department, AFL–CIO (TTD) commented in support of the four categories of actions the Agency identified in § 385.907 that would trigger liability under this rule. NATC commented that the Agency did not define ''avoid compliance'' and did not identify a standard for complying with statutory or regulatory safety requirements. Similarly, National Ground Water Association (NGWA) and OOIDA requested that FMCSA clarify the terms ''avoiding noncompliance,'' ''avoiding regulatory compliance,'' and ''concealing regulatory noncompliance.'' Several commenters requested a definition or clarification of what type of conduct constitutes ''masking or otherwise concealing noncompliance.''

FMCSA Response. Section 385.907 identifies avoiding regulatory compliance as *failure* or *concealing failure* to (1) comply with statutory or regulatory requirements prescribed under 49 U.S.C. Chapter 311, subchapter III, (2) comply with State or Federal orders issued to redress violations of those requirements, (3) pay a civil penalty for violating those requirements, or 4) respond to an enforcement action for a violation of those requirements. Any of these four types of conduct constitutes noncompliance, and anyone who has engaged in such conduct has avoided compliance. Anyone who attempts to hide, or evade the consequences of, such noncompliance has engaged in masking or otherwise concealing noncompliance.

Comment. OOIDA sought clarification of ''. . . *failure* or *concealing failure to* . . . 2) comply with State or Federal orders issued to redress violations of those requirements,'' by asking what types of orders trigger enforcement.

FMCSA Response. Failing to comply with any order issued by FMCSA or a State to enforce safety regulations issued under the authority of 49 U.S.C. Chapter 311, subchapter III could trigger enforcement of this rule. These orders could include, but are not limited to, operations out-of-service orders, orders directing payment of civil penalties, orders directing compliance, orders revoking or suspending operating authority registration and orders directing a safety audit or other investigation.

Comment. NATC asked what constitutes ''a history of non-compliance.''

FMCSA Response. A motor carrier that has engaged in one or more of the four types of conduct identified in § 385.907 has a history of noncompliance.

Comment. NATC commented that the Agency did not define ''failure to respond'' as used in § 385.907 and asked whether a partial response would constitute failure to respond.

FMCSA Response. Failure to respond means not taking action in response to, or not participating in, enforcement actions arising out of violations of safety requirements. Examples include, but are not limited to, failing to: submit proof of corrective action as directed by the Agency; produce information as directed by the Agency in furtherance of an audit or investigation; or pay a civil penalty as required by a final order imposing the penalty. Whether a partial response constitutes failure to respond is a highly fact-specific question that cannot be generalized prospectively but would be the subject of focused consideration in an action under this rule.

Comment. OOIDA asked to what extent FMCSA will be focused on finding patterns or practices of safety violations that involve concealment and whether a single act of concealment could trigger enforcement.

FMCSA Response. The Agency intends to pursue egregious conduct under this rule irrespective of whether it constitutes avoiding compliance or concealing noncompliance. One act of concealment could be sufficient to establish a pattern or practice; however, that determination is fact-specific and must be considered within the context of the officer or motor carrier's conduct and the factors set forth in § 385.909.

Comment. UMA commented that when a motor carrier that is placed out of service makes arrangements to fulfill its contractual obligations, that carrier should not automatically be considered to be reincarnating, or masking or avoiding a negative compliance history. UMA further commented that it would be better for FMCSA to monitor the continued operations of an out-of-service carrier while that carrier seeks reinstatement, citing financial obligations such as payroll and lease payments.

FMCSA Response. The fact that a motor carrier contracts with another company after being placed out of service does not necessarily establish reincarnation. The Agency's orders may permit carriers to contract with other entities or to resume operations after receiving an out-of-service order under certain circumstances. How a motor carrier handles its contractual obligations may be one factor the Agency considers when determining whether a motor carrier has reincarnated, but it would not necessarily be dispositive. Each case is fact specific and would be evaluated in accordance with the factors in § 385.1007.

Carriers must work with the appropriate enforcement personnel to ensure that they remain in compliance with all regulatory requirements. A carrier that operates within the parameters of existing regulations and orders is not, by definition, avoiding compliance or masking or concealing noncompliance. Although FMCSA regulations require a passenger carrier to make arrangements to transport stranded passengers to the next destination in the event a vehicle or driver is placed out-of-service, that carrier would not normally be permitted to resume regular operations through the use of a third party.

Comment. Institute of Makers of Explosives (IME) requested that FMCSA clarify that holders of hazardous materials safety permits (HMSP) would not be subject to liability under the proposed rule if they transferred assets to other related HMSP carriers while waiting to ''age out'' of an out-of-service disqualification, as long as this arrangement was disclosed to the Agency and the assets transferred were not the cause of the disqualification.

FMCSA Response. A carrier that transfers assets to an affiliated carrier to avoid being placed out of service or losing its HMSP engages in conduct that is designed to avoid regulatory compliance. Whether the conduct would then rise to the level of a pattern or practice of avoiding, masking or concealing would depend on the facts of the particular case.

Comment. OOIDA commented that violations of 49 U.S.C. 31105, motor

carrier employee whistleblower protection provisions, should also be included in § 385.907.

FMCSA Response. The Agency did not incorporate OOIDA's suggestion that whistleblower protection provisions be included in § 385.907. Congress limited the Agency's authority to suspend or revoke a motor carrier's registration for a pattern or practice of regulatory noncompliance involving violations of safety statutes at 49 U.S.C., Chapter 311, subchapter III (49 U.S.C. sections 31131–31151) and accompanying regulations (49 CFR parts 380–387 and 390–398). The motor carrier employee whistleblower protection provisions at 49 U.S.C. 31105 are outside the scope of FMCSA's statutory authority for the purposes of this rule. Individuals seeking protection under § 31105 can seek redress through the U.S. Department of Labor or by pursuing their rights in Federal court. Regardless, if the conduct that gave rise to the whistleblower claims involved violations of FMCSA's safety statutes, they could form the basis for enforcement under this rule.

Officer

Comment. UMA, American Trucking Associations (ATA) and FedEx Corporation (FedEx) all commented that the Agency's interpretation of the statutory definition of ''officer'' is overly expansive and should not include contractors and consultants. OOIDA took the opposite position, commenting that the definition should include contractors and consultants.

FMCSA Response. Including contractors and consultants in the definition of ''officer'' is consistent with Congress's intent. The statutory definition specifically includes ''any person, however designated, exercising controlling influence over the operations of a motor carrier.'' Nothing indicates that Congress intended to limit the concept of ''any person'' to something less than the plain meaning of the words ''any person.'' To the contrary, all evidence suggests that Congress sought to target bad actors based on their conduct and the influence they wield over motor carrier operations, regardless of their position, title or employment status.

Comment. ATA commented that motor carriers rarely grant controlling influence to contractors and that defining ''officer'' to include contractors would have a chilling effect on motor carriers seeking outside help to improve safety practices. NATC also commented that contractors rarely have direct control over motor carrier compliance and could suffer unfairly from association with disreputable motor carriers.

FMCSA Response. Contractors, agents or consultants who exercise controlling influence over motor carrier operations in an effort to reverse a culture of noncompliance or otherwise improve compliance would not be the subject of enforcement under this rule. That said, FMCSA has observed instances in which consultants have exercised controlling influence over operations to help motor carriers avoid compliance or evade the consequences of previous instances of noncompliance. Although these consultants are not technically employees, their influence is both palpable and detrimental to safety. The Agency intends for this final rule to have a deterrent effect on persons such as contractors, agents or consultants who exercise a controlling influence and advise motor carriers on how to circumvent FMCSA's safety regulations.

Comment. FedEx commented that the rule should define ''contractor'' to exclude independent businesses operating pursuant to the Part 376 leasing regulations.

FMCSA Response. The Agency does not believe it is appropriate to define contractor because the term is not used in the regulatory text. Regardless, FMCSA does not believe that any classification of contractor should be categorically excluded from this rule, for the reasons stated above.

Controlling Influence

Comment. Werner, ATA and FedEx commented that the Agency should define ''controlling influence.''

FMCSA Response. In response to comments, the Agency added a definition of ''controlling influence.'' FMCSA describes this change in the Section-by-Section Analysis portion of this final rule.

Comment. OOIDA asked whether owner-operators are intended to be one of the subjects of the rulemaking when they do not meet the definition of ''officer.''

FMCSA Response. This rule covers any person who exercises controlling influence over a motor carrier's operations. An owner-operator can be subject to this rulemaking either as a motor carrier or as an officer, depending on the capacity in which he or she is acting. For example, an owner-operator who engages in a pattern or practice of safety violations in his or her capacity as a motor carrier, operating under his or her own registration, could be subject to enforcement under this rule. An owner-operator who acts as an officer, exercising controlling influence over another motor carrier's operations and engaging in a pattern or practice of safety violations, could also be the subject of enforcement action. In accordance with congressional intent, an owner-operator who engages in a pattern or practice of safety violations while working under another motor carrier's registration risks having his or her own individual registration suspended or revoked. However, an owner-operator who neither acts as a motor carrier nor an officer would not be subject to this rule.

Pattern or Practice

Comment. TTD commented in support of the factors the Agency set forth in § 385.909 to determine whether a pattern or practice exists. ATA, NATC, FedEx and OOIDA requested that the Agency define ''pattern of noncompliance'' or otherwise establish objective factors for ''pattern or practice.''

FMCSA Response. Congress charged the Agency with rooting out those bad actors that have engaged in a pattern or practice of avoiding regulatory compliance. That charge does not lend itself to the establishment of rigid factors or a single definition. Each case must be assessed based on the facts specific to that situation; no two acts of noncompliance or avoidance are exactly the same. As such, the Agency must have the flexibility to tailor its enforcement actions to the facts of the specific cases. The factors in § 385.909 are designed to provide a framework for identifying objective information the Agency can evaluate when determining whether a violation occurred. Moreover, the factors provide the Agency the necessary flexibility to balance a suspected violation against potentially mitigating circumstances.

Comment. OOIDA commented that without a more exact formula for determining what is a pattern or practice, enforcement officials would not be able to ensure uniform application of the rule and motor carriers could be subject to inconsistent enforcement actions. Similarly, FedEx commented that the Agency could develop significant regional differences in the application without more specific guidelines.

FMCSA Response. The Agency is not persuaded that enforcement rules require a formulaic approach in order to avoid inconsistent application or result. To the contrary, the Agency believes enforcement is best served when there is room for discretion, explanation, and consideration of the unique circumstances of each individual and carrier. Regardless, the administrative review procedure in the rule mitigates

the potential for inconsistency because one person—the Assistant Administrator—is responsible for administrative review in all cases.

Comment. FedEx recommended establishing predicate acts that must occur prior to the Agency determining that a pattern or practice exists.

FMCSA Response. In order for FMCSA to determine that a motor carrier or officer has engaged in a pattern or practice of avoiding compliance or concealing noncompliance, the Agency must first determine that the motor carrier or officer has engaged in one or more acts of regulatory noncompliance as described in § 385.907. Those acts that fall within one of the four prongs in § 385.907 are themselves the predicate acts that must occur prior to the Agency making a determination that a motor carrier or officer engaged in a pattern or practice of avoiding regulatory compliance or concealing noncompliance.

Comment. OOIDA asked the Agency to clarify what types of data it would rely on in enforcing this rule. OOIDA specifically asked whether the Agency would use violations identified in inspection reports from Motor Carrier State Assistance Program (MCSAP) partners and during safety audits. OOIDA commented that it believes the inspection data FMCSA collects is inaccurate and unreliable and would undermine the lawfulness and utility of enforcement actions. NATC asked whether the Agency has established standards to ensure uniform investigations and whether there is a process for reviewing the investigation results before they are used as a basis for action under this rule.

FMCSA Response. To enforce this rule, FMCSA will use the same data gathered in accordance with the same investigative procedures that it currently uses in enforcement actions. In fact, data gathered in previous investigations in accordance with those procedures may be used to inform the Agency Official's action under the rule. For example, the Agency intends to use information obtained from compliance reviews, safety audits, roadside inspections and other investigations concerning safety performance. FMCSA's investigative standards and policies, including those of its MCSAP partners, will generally apply to proceedings arising under this rule, just as they would to any other Agency enforcement proceeding.

Comment. FedEx commented that information gathered in accordance with pending enforcement actions should not be one of the factors in § 385.909, suggesting that only those enforcement actions that constitute final agency actions should be taken into consideration.

FMCSA Response. This rule is designed to deter motor carriers and individuals from attempting to avoid enforcement action by masking or concealing noncompliance or creating new identities or affiliate relationships. This rule is necessary because, in many cases, motor carriers attempt to avoid detection by concealing evidence of noncompliance or creating new identities when they believe enforcement action has or will be initiated due to a poor safety performance history. The Agency has observed that some motor carriers engage in evasive conduct to avoid even the threat of scrutiny. These carriers constantly shift their assets, hoping that the Agency cannot keep up with them. In some cases, motor carriers may disappear and pop up elsewhere before the Agency can issue an order or a notice of claim.

The Agency will look at all aspects of a motor carrier's safety performance history, as it does in any other type of investigation. The motor carrier's safety performance history provides critical information about the carrier, irrespective of whether that information culminated in a formal investigation or closed enforcement case. The fact that pending or unresolved enforcement actions exist, however, are often an indicator that, especially in the context of reincarnated carriers, a motor carrier may be taking evasive action to avoid a negative safety compliance history. But the fact that there is a pending or unresolved enforcement action associated with a motor carrier is not in and of itself dispositive; the Agency will consider and evaluate the facts associated with the underlying conduct that gave rise to the enforcement action. As in any other type of enforcement action, the motor carrier is given the opportunity, in accordance with principles of due process, to rebut the Agency's claims and submit its own evidence.

Regardless, the Agency understands FedEx's concerns with the language as proposed. To address this concern, FMCSA changed proposed § 385.909(e) to clarify that the purpose of considering pending and closed enforcement actions is to evaluate a carrier's safety performance history. As such, that factor now reads: ''(e) Safety performance history, including pending or closed enforcement actions, if any. . . .''

Comment. NATC commented that the rule does not incorporate the MCSAC recommendation that ''a pattern is both widespread and continuing over time, and does not require a specific number of violations.'' Similarly, Werner commented that the rule did not distinguish between conduct that occurred recently or in the distant past.

FMCSA Response. The Agency disagrees that the rule does not incorporate the MCSAC recommendation or does not distinguish between current and past conduct. To the contrary, the factors in § 385.909 were designed to do just that. For example, the first factor, ''the frequency, remoteness in time, or continuing nature of the conduct,'' allows the Agency Official to consider how often or enduring the conduct is, including whether it was confined to the past or continues currently. Moreover, the rule does not require the Agency to identify a specific number of violations. As explained in the NPRM, as few as one violation identified in § 385.907 is sufficient to trigger enforcement of the rule.

Common Ownership, Management, Control or Familial Relationship

Comment. TTD commented in support of the factors in proposed § 385.911 to determine whether there is common ownership, management, control or familial relationship. NATC requested that the Agency change the language in that section from ''the Agency Official *may* consider, among other things, the following factors,'' (emphasis added) to ''the Agency Official *must* consider, among other things, the following factors.'' NATC also asked the Agency to identify the other factors that the Agency Official could consider under proposed § 385.911. FedEx and NATC commented that the Agency did not define or set standards to determine ''common familial relationship.'' ATA suggested that the rule specify that a single factor may not be sufficient to establish common ownership, management, control or familial relationship, so as not to capture carriers with operations that resemble another carrier's operations because of a legitimate purchase of that other carrier's business. NATC recommended establishing a minimum number of factors that must be present to establish common ownership, management, control or familial relationship.

FMCSA Response. The substance of proposed § 385.911 now appears as § 385.1007 in new Subpart L as a part of the non-substantive restructuring described below. As with identifying a pattern or practice of noncompliance, identifying common ownership,

management, control or familial relationships does not lend itself to a rigid formula. Chameleon carriers exploit the facts of their particular circumstances and the limitations of existing Agency regulations and resources to evade detection. There are myriad ways a motor carrier can structure and restructure operations in an attempt to avoid the consequences of noncompliance. As such, the Agency must have the flexibility to evaluate motor carrier operations from a common sense approach, looking at the facts of each situation as they arise. The factors are designed to root out chameleon carriers by evaluating the individual characteristics of their actions.

To preserve its flexibility, the Agency declines to establish a finite set of factors or establish a minimum number of factors that must be present. It may be that common ownership is evident by considering only a few of the factors on the list. The Agency does not believe that it is the best use of its resources to require the Agency Official to engage in analyses that would not affect the outcome of his or her decision. Similarly, if evidence related to one of the factors clearly indicates common ownership, there is no reason that the Agency must find evidence supporting other factors. Finally, the Agency does not believe that it is prudent to prohibit the Agency Official from evaluating any relevant and admissible evidence that might prove—or disprove—such relationships simply because the evidence does not directly relate to one of the factors. Therefore, FMCSA did not make NATC's suggested language change.

Comment. ATA recommended that FMCSA change the language proposed in § 385.905(a)(3) to read: ''If two or more motor carriers use common ownership, common management, common control or common familial relationship *with the intent to permit* any or all such motor carriers to avoid compliance. . . .''

FMCSA Response. As a part of the restructuring of new Subpart L, FMCSA moved the text of § 385.905(a)(3) to § 385.1005 and modified the text slightly to make it conform to the statutory language. That text now reads: ''Two or more motor carriers shall not use common ownership, common management, common control, or common familial relationship to enable any or all such motor carriers to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with statutory or regulatory requirements prescribed under 49 U.S.C. Chapter 311, subchapter III, or with or an order issued under such requirements.'' ATA's suggested language deviates from the statute and, as such, Agency did not make that change.

Egregious Disregard

Comment. OOIDA commented that the Agency did not define ''egregious.'' Similarly, NGWA requested that the Agency clarify ''egregious disregard.''

FMCSA Response. The Agency does not believe it is necessary to define ''egregious'' because this term does not appear in the regulatory text. For purposes of the final rule preamble, the word takes its ordinary meaning: extraordinarily bad. The final rule thus targets the small number of carriers whose acts of noncompliance involve more than isolated instances of noncompliance resulting from simple negligence. The rule targets carriers whose conduct demonstrates a willful, and possibly repeated, attempt to avoid compliance or shield noncompliance. This conduct, when viewed in light of the factors contained in the rule, shows a disregard for the Agency's safety requirements and therefore presents an unacceptable increased risk to safety warranting application of the rule.

Relationship to Other Agency Programs or Enforcement Activities

Comment. OOIDA asked FMCSA to explain the relationship between today's final rule and existing rules and to explain whether today's final rule was intended to create an entirely new enforcement process. OOIDA also asked that the Agency explain how the procedures in 49 CFR parts 385 and 386 are different from today's final rule.

FMCSA Response. In response to OOIDA's comment, FMCSA carefully considered the differences and similarities between the proposed rule and the Agency's existing enforcement procedures under 49 CFR parts 385 and 386 as well as the suspension and revocation practices conducted under the authority of 49 U.S.C. 13905. Although today's final rule promulgates new causes of action, the Agency believes that it is more efficient and effective for these rules to fit seamlessly within the structure of existing enforcement procedures. As a result, the Agency decided to make a number of changes to the structure of today's final rule to eliminate confusion and more closely align it with existing Agency enforcement practices.

First, instead of combining the pattern or practice and common ownership elements of this rule, FMCSA separated them by creating a new 49 CFR part 385, subpart L titled ''Reincarnated carriers.'' FMCSA did this because there are inherent differences between an enforcement proceeding evaluating a pattern or practice and one evaluating reincarnation or affiliation. For example, there might be an intervening person in a pattern or practice proceeding, but there will never be one in a reincarnation proceeding. In addition, the factors for evaluating the two different types of cases are very different. The revised structure simplifies the rule and makes it easier to understand which procedures apply to the two different types of enforcement actions.

Second, FMCSA aligned the factors for evaluating reincarnated carriers under today's final rule with the existing procedures at 49 CFR 386.73 for evaluating reincarnated and affiliated carriers. Both rules have the same objective: determining whether the commonalities between entities rise to the level of reincarnation or affiliation. The only substantive difference is that § 386.73 authorizes the Agency to issue an out-of-service order or record consolidation order, while today's final rule authorizes the Agency to suspend or revoke registration. In light of those similarities, the Agency decided against having two separate sets of factors—which could evolve into two separate standards for evaluating the same conduct. As a result, the factors previously set forth at § 386.73 also apply to FMCSA's evaluation of common ownership, management, control or familial relationship under today's final rule.

Third, to align this rule with existing suspension and revocation proceedings initiated under the authority of 49 U.S.C. 13905, FMCSA eliminated the requirement that the Agency must first suspend a carrier's registration prior to initiating a revocation proceeding. This change conforms today's final rule to current Agency suspension and revocation practices, as described in *FMCSA Policy on Granting, Withholding, Suspending, Amending or Revoking Operating Authority Registration,* 77 FR 46147, Aug. 2, 2012.

Comment. Advocates for Highway and Auto Safety (Advocates) commented that under § 385.915, a revocation proceeding can only take place after a suspension proceeding and that the Agency should streamline the process so that a carrier's registration could be revoked after only one proceeding. Advocates reasoned that the compliance orders the motor carrier failed to comply with that triggered enforcement under this rule can serve as the predicate for initiating revocation proceedings.

FMCSA Response. Taking into account this comment, as well as current enforcement procedures, FMCSA agrees that it is not necessary to require a suspension proceeding prior to a revocation proceeding and has therefore decided to eliminate this requirement, as discussed above. Regardless, revocation proceedings must comply with the requirements of 49 U.S.C 13905. Under section 13905, FMCSA may revoke registration only after FMCSA has issued an order to the carrier directing compliance and the carrier has willfully failed to comply for 30 days. An order that triggers enforcement could be one that was issued before the revocation proceeding was initiated or one that was issued during the revocation proceeding. In either scenario, §§ 385.913 and 385.1011 provide 30 days for the motor carrier to show cause why its registration should not be revoked.

Comment. OOIDA commented that the enforcement procedures in 49 CFR part 385 make distinctions between acute and critical violations and requests this level of specificity for this rule.

FMCSA Response. The existing safety fitness determination procedures at part 385 subpart A serve a different purpose, making the need for distinguishing between acute and critical violations unnecessary for this rule. Congress has determined that those carriers engaging in a pattern or practice of safety violations present a risk to the public that goes beyond what the Agency can address through a safety fitness determination. A safety fitness determination is critical to ensuring that only qualified carriers operate on the nation's highways. But this rule identifies conduct—a pattern or practice of safety violations—that goes beyond what can be routinely detected in an investigation or isolated inspection. A pattern relates to conduct that is widespread and continuing over time, involves more than isolated violations, and does not require a specific number of violations. A practice is an organization's policy, whether written or not, that informs its conduct and operational management; the practice could be evidenced by one or more instances of conduct. Thus, under this rule, the Agency considers a carrier's safety compliance, not just in terms of individual instances of noncompliance, but in the greater context of how the carrier deals with that noncompliance. Accumulating a series of safety violations could affect a carrier's safety rating, but would not necessarily trigger enforcement under this rule if that carrier took corrective action and otherwise managed those violations responsibly. Conversely, carriers that seek to avoid the consequences of accumulating those violations, or that perpetuate a culture of avoiding compliance with safety regulations, would be candidates for enforcement under this rule even in cases where the particular violations discovered in the most recent review or inspection did not in themselves warrant an unsatisfactory safety fitness determination.

Comment. OOIDA commented that the public could assist FMCSA with its enforcement efforts if it would make the FMCSA Register more accessible and informative. With more information, members of the public could help FMCSA identify new applicants with histories of noncompliance.

FMCSA Response. FMCSA appreciates OOIDA's comments on how to improve the FMCSA Register. Although it is not appropriate to codify changes to the FMCSA Register as a part of this rulemaking, FMCSA will take OOIDA's comments under advisement.

Comment. OOIDA requested that FMCSA explain the Agency's standard for denying applications for operating authority based on failure to disclose affiliations with other motor carriers.

FMCSA Response. The focus of this rule is on the suspension or revocation of existing operating authority registration. Although FMCSA has the authority to deny registration applications for failure to disclose relationships with other registrants, that authority is beyond the scope of today's rule. For additional information on FMCSA's policies governing the grant or denial of operating authority registration applications, see *FMCSA's Policy on Granting, Withholding, Suspending, Amending or Revoking Operating Authority Registration* (77 FR 46147, August 2, 2012).

Comment. TIA commented that another way to achieve the objectives of today's rule is to require motor carriers to re-register every year and to link the Agency's Unified Carrier Registration requirements with operating authority. TIA also suggested that the Agency consolidate its out-of-service processes as well as develop links between a number of FMCSA's enforcement programs.

FMCSA Response. FMCSA appreciates TIA's comments on how to improve its enforcement program, but does not believe that TIA's suggestion would fulfill Congress's directive to take action against patterns or practices of safety violations.

Comment. TIA recommended that FMCSA should prohibit the sale of operating authority numbers.

FMCSA Response. TIA's recommendation is beyond the scope of this proceeding; however, it is the subject of a separate Agency rule. *See Unified Registration System,* 78 FR 52608, August 23, 2013.

Comment. Some commenters recommended that FMCSA train and work with State and local partners and provide information to industry stakeholders in an effort to eliminate the noncompliance today's rule targets.

FMCSA Response. FMCSA works with the State and local enforcement partners through the MCSAP, as well as the Agency's outreach and education programs. As part of this collaborative effort, FMCSA provides grants, training, and guidance to State and local agencies regarding policies, procedures, implementation, and administration of CMV programs. These cooperative efforts, although not specifically the focus of today's final rule, will continue to ensure that information shared with industry stakeholders is responsive to correcting noncompliance in areas relevant to this rule.

Information about some of FMCSA's outreach programs can be accessed at *www.nafmp.org* (North American Fatigue Management Program) and *www.tsi.dot.gov* (Transportation Safety Institute). Additional information for drivers, motor carriers and law enforcement partners can be found on FMCSA's Web site: *www.fmcsa.dot.gov*.

Comment. Some commenters recommended implementation of more stringent processes to oversee, monitor, and verify ownership of operating authorities and to deactivate USDOT numbers that have been inactive for long periods of time.

FMCSA Response. FMCSA will take this suggestion under advisement. FMCSA is continually implementing new methods to detect motor carriers attempting to circumvent the regulations by creating new entities. This rule provides another tool to prevent this from happening. For more information on the deactivation of DOT numbers, see *Unified Registration System,* 78 FR 52608, August 23, 2013.

Comment. NATC commented that the NPRM did not address how FMCSA would handle those who operate without authority after being identified as unfit to safely manage carrier operations.

FMCSA Response. NATC is correct that the NPRM did not expressly address these issues. Any motor carrier that operates without authority is currently subject to enforcement based on that lack of authority. See 49 CFR 392.9a. Nothing in this rulemaking changes that. Regardless, the Agency

would consider a motor carrier's history of operating without authority when determining whether to pursue enforcement under this rule.

Comment. Amalgamated Transit Union (ATU) and TTD commented that they support the rule, but caution the Agency not to overlook other important safety issues such as driver fatigue. An anonymous commenter stated that FMCSA should prohibit the use of loose-leaf record of duty status log books because it leads to violations of hours-of-service rules.

FMCSA Response. While issues such as driver fatigue and limitations on driving time are beyond the scope of this rulemaking, the Agency recognizes their importance. They are the subjects of other on-going Agency regulatory and enforcement initiatives. Information about the North American Fatigue Management Program is available at *www.nafmp.org.*

Regulating the Conduct of Individuals

Comment. NATC expressed concern that penalties under the rule are applied to the carrier and not the individual determined to have engaged in conduct constituting egregious disregard for safety compliance. NATC recommends that FMCSA change the rule to include or increase the potential penalties against an individual person, rather than focus on the motor carrier that employs the individual. Werner recommended targeting the person who engaged in the conduct (committed the ''pattern'') and not the hiring motor carrier.

FMCSA Response. Section 31135 authorized FMCSA to take enforcement action only against registered individuals and motor carriers. That means that under this rule, individuals holding their own operating authority registration are subject to enforcement if they engage in a pattern or practice of safety violations while working as an officer for another motor carrier. MAP–21 authorizes FMCSA to suspend or revoke the registration of any person who engages in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance. As such, if an individual who exercises a controlling influence over a motor carrier's operations also possesses his or her own operating authority registration, FMCSA may suspend or revoke that registration in addition to the carrier's registration. Section 385.919 (which was § 385.921 before being re-numbered in the final rule) provides that individuals holding operating authority registration are also subject to civil or criminal penalties.

Civil and Criminal Remedies

Comment. NATC commented that if FMCSA pursued criminal prosecution and the presently available enforcement remedies more vigorously, the deterrent effect would render the rule unnecessary.

FMCSA Response. FMCSA agrees that the possibility of criminal prosecution can act as a deterrent to the kind of conduct contemplated by the rule. It is not, however, the only or most effective deterrent, because FMCSA does not have direct authority to prosecute criminal violations. Once FMCSA identifies the potential need for criminal prosecution, it must refer the case to the Department of Justice with recommendations on disposition. Congress, in recognition of this limitation on FMCSA's authority, empowered the Agency through MAP–21 to take appropriate enforcement action in areas for which the Agency has direct and exclusive authority: all matters concerning operating authority registration and imposition of civil penalties for violation of safety regulations. Consistent with past practice, FMCSA will continue to recommend criminal prosecution in appropriate cases. Any action by FMCSA to suspend or revoke a motor carrier's operating authority registration or impose a civil penalty would not preclude pursuit of criminal penalties.

Comment. UMA commented that a motor carrier should be placed out of service only to protect the public and not as punishment; fines and criminal prosecution should be the only penalties for violations.

FMCSA Response. Underlying UMA's comment is the premise that out-of-service orders and civil or criminal penalties address different conduct; FMCSA rejects this distinction. This final rule targets those motor carriers that engage in willful noncompliance with safety regulations. Willful noncompliance with safety regulations is the clearest indication that a registered entity presents a risk to the motoring public. While civil and criminal penalties may have a deterrent effect, they do not in and of themselves ensure public safety. Shutting down a motor carrier that refuses to comply with safety requirements or follow FMCSA orders does.

Comment. IBT recommended that civil and criminal penalties be used against motor carriers that repeatedly violate FMCSA's safety regulations, regardless of whether the Agency suspends or revokes registration.

FMCSA Response. FMCSA will continue to pursue civil and criminal penalties against motor carriers that violate the Agency's regulations. The procedures in today's final rule provide the Agency with additional enforcement tools. To make clear that today's final rule is not the exclusive remedy for unlawful conduct, the Agency amended proposed § 385.921, now § 385.919, to state that nothing in this rule precludes FMCSA from taking action against a motor carrier for other unlawful conduct.

Due Process

Comment. NATC, UMA, and Werner expressed concern that the rule does not afford due process.

FMCSA Response. FMCSA is aware of the potential impact any determination under the rule could have on a motor carrier and the person whose conduct gives rise to an enforcement action. Accordingly, FMCSA deliberately included a procedural due process mechanism that grants motor carriers and individuals the right to notice of the proceeding and an opportunity to be heard. As with any action FMCSA takes, the Agency is keenly aware that it must act judiciously and fairly.

Sections 385.911 and 385.913 (which were proposed as §§ 385.913 and 385.915 before being re-numbered in the final rule) require FMCSA to provide written notice to the motor carrier and person who are alleged to have engaged in the conduct that resulted in the suspension or revocation proceeding. This notice must inform the motor carrier and person of the factual and legal basis for the determination and notify the person of his or her right to intervene in the proceeding. By intervening, the person is able to present argument and evidence, independently of the motor carrier, in defense or extenuation of the allegations. The procedures provide the motor carrier and intervening person the right to request administrative review of the Agency Official's decision. Additionally, under § 385.915 (which was proposed as § 385.917 before being re-numbered in the final rule), motor carriers and intervening persons have the right, at a later date, to request FMCSA to rescind an order the Agency issued under the rule. Collectively, these procedures ensure that the rights of motor carriers and individuals who may be affected by the rule are protected.

Regardless, FMCSA acknowledges the concerns that commenters expressed about protecting the rights of motor carriers and individuals. To eliminate any confusion over the rights and responsibilities of the parties to a suspension or revocation proceeding,

§ 385.911(e) makes clear that when administrative review is requested, the Agency Official must respond with evidence supporting each issue in dispute. The Agency Official's determination may be supported by either direct or circumstantial evidence. If the evidence is circumstantial, the Agency Official's determination may also be supported by the reasonable inferences drawn from the evidence. Finally, the Assistant Administrator may request additional evidence, but his review is limited to those issues identified in the petition for review.

Comment. NATC was concerned that implementation of the rule would result in a taking without due process.

FMCSA Response. Application of the rule will not result in a taking without due process of law. The procedures contained in §§ 385.911, 385.913, and 385.915 ensure both motor carriers and officers receive notice and an opportunity to be heard concerning any allegation that either engaged in a pattern or practice of safety violations or created a new entity or affiliate relationship to avoid regulatory requirements. The Agency's determination is made in context of these procedures, which provide due process and protect the carrier's and individual's interests.

Comment. NATC commented that the revocation procedures do not require the Agency to show a willful failure to comply.

FMCSA Response. Sections 385.913 and 385.1011 state that the Agency Official may revoke a motor carrier's registration only if the motor carrier willfully violated an order for at least 30 days.

Due Diligence/Hiring Concerns

Comment. NATC commented that existing databases and Web sites do not have adequate information about individuals for an employer to make a determination on a prospective officer's history of noncompliance. NATC commented that contractors would suffer guilt by association even if they had not themselves been noncompliant or exercised controlling influence over motor carrier operations. UMA commented that there is no formal mechanism for carriers to disclose hiring decisions. UMA went on to suggest that FMCSA is creating an informal blacklist, the contents of which carriers would have to guess. UMA commented that this would bar certain people from the industry without due process and would be shifting responsibility for regulating to motor carriers.

Werner commented that an innocent carrier could be held responsible for the conduct of an employee, even though the carrier was not aware of the employee's conduct. Werner is particularly troubled that a carrier could face enforcement action when the employee's conduct occurred before the carrier hired the employee. Werner and ATA commented that carriers do not have reliable access to background information on prospective hires and that checking references does not always yield the necessary information because many employers are unwilling to provide information other than the dates of hire and termination. ATA commented that publicly available safety data for motor carriers is generally available only for three years, and that prospective employers might reject qualified applicants because of their inability to confirm the compliance history of previous employers.

Werner and ATA stated that carriers will be put in the position of having to make a decision as to whether the perspective employee was in a position to exercise ''controlling influence'' without having adequate information. Werner commented that this would create a presumption against hiring people where information is not readily available, and could result in a person's lifetime ban from the industry if they were associated in any way with a questionable carrier. ATA commented that the rule would penalize innocent employees who happened to work for companies with poor safety cultures. ATA recommended that the Agency limit a motor carrier's liability for an officer's conduct with a previous employer.

FedEx commented that there are no fixed standards for determining whether a carrier has exercised due diligence in hiring. FedEx stated that checking the history of previous motor carrier employers without additional scrutiny into the applicant's role with previous employers could result in a blanket refusal to hire an individual even if that individual had no involvement in noncompliance. FedEx further commented that the evaluations the rule requires are overly burdensome and will create a significant amount of administrative work for employers.

FMCSA Response. Motor carriers are responsible for the people they hire to act on their behalf. This concept is not unique; motor carriers, like all other employers, conduct due diligence to avoid negligent hiring claims under existing law. The concept of negligent hiring is a long-standing legal principle and myriad employers have navigated the due diligence requirements to protect themselves from liability. As a result, FMCSA believes that most companies already have procedures or policies for investigating prospective employees. The Agency finds it difficult to believe that any responsible motor carrier would engage someone to exert controlling influence over its operations without engaging in a level of due diligence sufficient to understand the person's qualifications and prior work experience in the industry. The requirements of this rule are thus consistent with standard business practices, and, as a result, the Agency believes that motor carrier employers should not face additional burdens with respect to conducting the requisite due diligence in hiring. Placing limits on liability would discourage motor carriers from engaging in due diligence, and, accordingly, the Agency declines to adopt this suggestion.

That said, the Agency acknowledges that there are limitations to what an employer can discover and that applicants can misrepresent their work experiences. But as the Agency stated in the NPRM, this rule targets only the worst motor carriers. The Agency must present evidence demonstrating willful conduct before it may issue an order to suspend or revoke operating authority registration. The Agency would not be able to sustain an order suspending or revoking registration merely on evidence that a person previously worked for a motor carrier that had a history of noncompliance or even that the person exercised controlling influence over a noncompliant motor carrier's operations. FMCSA could only suspend or revoke the registration on competent evidence that the person exercised controlling influence *and* was personally involved, either by act or omission, in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance. The Agency must therefore establish that the officer engaged in willful conduct to avoid compliance or hide noncompliance.

Comment. NATC suggested that FMCSA create a database of individuals unqualified to work in the motor carrier industry. If FMCSA does not do that, NATC commented, it will place an unreasonable burden on motor carriers and will force the industry to develop its own standards and blacklists without due process. Werner and ATA suggested that the best solution is for FMCSA to maintain a list or clearinghouse of individuals who have engaged in a pattern or practice of avoiding compliance.

FMCSA Response. The Agency acknowledges the commenters' interests in creating a clearinghouse for the purposes of identifying officers who have engaged in a pattern or practice of safety violations, but it declines to make this information available in the form of a list or clearinghouse. A clearinghouse or list would not take into account all of the factors the Agency might take under consideration such as remoteness in time and whether the individual continues to present a risk to safety or has rehabilitated him or herself. The Agency intends for this rule to address non-compliance in the context of the point in time and circumstances raised in the Agency Official's order. A list of the type the commenters suggested could have the effect of unfairly excluding individuals from the motor carrier industry. That said, FMCSA's enforcement decisions under this rule will be available to the public. Although those decisions will identify the individual officers who have engaged in a pattern or practice of safety violations, they will also provide the context and circumstances giving rise to the Agency Official's decision.

Comment. UMA suggested that FMCSA should register individuals responsible for safety compliance and revoke that registration if the Agency can show noncompliance with safety regulations.

FMCSA Response. Section 31135 authorized the Agency to suspend or revoke *motor carrier* registration for permitting an officer who engages in or has engaged in a pattern or practice of safety violations to act on the motor carrier's behalf. It did not authorize FMCSA to create a new registration scheme for those individuals who are employed by motor carriers to manage for safety compliance. To the contrary, in section 31135, Congress authorized FMCSA to use its existing tools—suspension or revocation of a *motor carrier's* operating authority registration—to address patterns and practices of safety violations. FMCSA has never registered individuals who are not operating as motor carriers, brokers or freight forwarders; it need not do so now to effectuate Congress's intent.

Timing of Suspension or Revocation

Comment. Truck Safety Coalition (TSC), IBT, and TIA each generally supported the rule. Each commenter expressed concern, however, that revocation and suspension orders issued under the rule do not take effect immediately and requested that FMCSA either make the orders immediately effective or dramatically reduce the time in which carriers have to respond to the action under §§ 385.913 and 385.915.

FMCSA Response: FMCSA appreciates these and other comments expressing concern that the suspension and revocation process would take too long or be unnecessarily cumbersome. In response to these comments, FMCSA decided to make changes to the suspension and revocation procedures in this rule, as described below. That said, MAP–21, and in particular 49 U.S.C. 13905, requires that registered entities be given notice and an opportunity for a proceeding before FMCSA suspends or revokes operating authority registration. FMCSA does not have statutory authority, therefore, to issue a suspension or revocation order under 49 U.S.C. 31135 that becomes immediately effective and for which procedural due process is provided after the fact.

Moreover, FMCSA carefully considered the timeframes and has determined that they are not only consistent with other Agency enforcement procedures, but also provide both a fair opportunity for the registered entity to be heard and an efficient process to stop carriers who flagrantly disregard requirements from operating. But we emphasize that this rule was not meant to address situations with carriers that the Agency considers an immediate threat to public safety; FMCSA has authority under 49 U.S.C. 521(b)(5) to issue an imminent hazard operations out-of-service order, which is immediately effective. FMCSA issues these orders when it determines that a carrier's operation substantially increases the likelihood of serious injury or death if not discontinued immediately. If the facts warrant, FMCSA could issue an order under today's rule, as well as an imminent hazard operations out-of-service order.

Comment. FedEx suggested that the Agency amend proposed § 385.913(e) (§ 385.911(e) in the final rule) so that any suspension order is automatically stayed until after the Assistant Administrator conducts his review. Conversely, TSC commented that a motor carrier should *not* be able to continue operating for an additional 60 days after the Agency concludes that its registration should be suspended or revoked.

FMCSA Response. FMCSA acknowledges the desire of TSC and others for swift resolution in an enforcement action while at the same time acknowledging FedEx's concern that carriers not be prematurely shut down. Loss of registration is a significant sanction; as such, FMCSA carefully balanced the public safety interest in suspending or revoking an unsafe motor carrier's registration with the need to protect the due process rights of motor carriers and individuals that are the subject of enforcement proceedings. One of those safeguards includes providing adequate opportunity for the carrier or individual to be heard before registration is suspended or revoked. In addition, this rule was not meant to replace other FMCSA enforcement tools to prevent carriers from operating when their operations present an immediate risk of harm, such as imminent hazard procedures at 49 U.S.C. 521 and 49 CFR 386.72.

Comment. NATC commented that there are no time requirements by which the Agency must respond to a petition for administrative review. Similarly, TSC commented that the Agency does not have a fixed time within which to respond to a carrier's submission. Advocates recommended that proposed §§ 385.913 and 385.915 establish a time within which the Assistant Administrator must render a decision on whether to suspend or revoke a motor carrier's registration.

FMCSA Response. The rule provides for specific timeframes within which the Agency must act in response to a petition for administrative review of suspension or revocation proceedings. With respect to suspension proceedings, § 385.911(e)(3) (proposed as § 385.913(e)(3)) requires FMCSA, through the Agency Official, to serve a response to the petition no later than 15 days following the service of the petition. Recognizing the Assistant Administrator's limited resources, FMCSA changed § 385.911(e)(5) (proposed as § 385.913(e)(5)) to require the Assistant Administrator to issue a written decision within 60 days instead of 30 days. Section 385.913(e) applies the same time frame to administrative review procedures for revocation proceedings.

Section 385.915 (proposed as § 385.917) requires the Agency Official to act on a petition for rescission within 60 days. NATC is correct, however that the proposed rule did not establish a time frame for the Agency Official to respond to a request for administrative review of a denial of a petition for rescission under § 385.915. To correct this omission, the Agency added a new paragraph (g) granting the Agency Official 15 days to respond to a petition for review of the order denying the petition for rescission. New paragraph (h) grants the Assistant Administrator 60 days from service of either the petition for review or the Agency

Official's timely-served response to serve a decision to act on the petition.

Privacy Analysis

Comment. NATC commented that it disagreed with the Agency's privacy impact analysis because the rule fails to address the rights of the individuals who will be refused work, and that a determination without an impartial Federal judge directly impacts the privacy of the individuals involved.

FMCSA Response. The Agency's privacy impact analysis explains how FMCSA will safeguard the personally identifying information the Agency collects or uses in connection with the rule. NATC's comment about the rights of individuals relates to the process the Agency has developed to protect individual rights. The Agency addresses those comments in the section entitled ''Due Process,'' above.

Economic Analysis

Comment. NATC commented that the proposed rule would have a major impact on the motor carrier industry and stated that FMCSA had not documented the number of carriers that would be impacted by this rule, the economic impact of their loss of operating authority, or the fact that the impact will be smaller than $100 million. Furthermore, NATC commented that the rule would impose costs on carriers by requiring them to conduct background checks on new employees. Finally, NATC said that small entities will be adversely affected by the loss of individuals deemed unfit by the FMCSA.

FMCSA Response. In the NPRM, the Agency estimated the cost of suspension or revocation of a company's operating authority. The use of the proposed rule against a typical carrier would require the State-level re-licensing and re-registering of an average of 10 CMVs, which would cost at most $32,000. We estimate that the rule would have been applied six times in the year preceding this final rule, which would have created total societal costs of $192,000. The costs of this rule would remain well below the $100 million threshold for economic significance even if the Agency were to apply it to a much larger number of carriers each year; therefore, no detailed analysis is necessary. FMCSA has indicated that this rule would be used only in egregious circumstances. It is therefore unlikely to have a ''significant economic impact on a substantial number of small entities'' (SEISNOSE). The small number of companies affected by this rulemaking allows FMCSA to certify that it will not have a SEISNOSE. With regard to background checks, employers vet new employees already as part of good business practices. Vetting for the purposes of ensuring compliance with this rule is consistent with established business practices and therefore does not impose additional costs on carriers.

Changes From the NPRM

This final rule makes the following changes to the NPRM in response to comments. FMCSA separated the rule into two subparts: Subpart K governing patterns or practices of safety violations and Subpart L governing reincarnated carriers. As a result of this change, FMCSA eliminated proposed § 385.911 and renumbered proposed §§ 385.913–385.923 as §§ 385.911–385.921. FMCSA changed the regulatory text in § 385.901 to make clear that this rule applies to all entities required to be registered under 49 U.S.C. § 13902. In § 385.903, FMCSA added a definition of ''controlling influence'' to clarify what types of conduct would trigger enforcement under this rule. In § 385.909, FMCSA changed the title to ''Pattern or practice,'' to eliminate confusion and made a change to the factors that the Agency Official considers in determining whether a motor carrier or a person acting on its behalf has engaged in a pattern or practice of safety violations. The factor that previously considered the existence of pending or closed enforcement cases was changed to clarify that the Agency would be considering safety compliance history, including pending or closed enforcement cases. FMCSA changed the regulatory text in proposed § 385.913(b) (now § 385.911(b)) to make clear that the motor carrier's or intervening person's response to the show cause order must state the factual or legal basis for the response. FMCSA also changed the regulatory text in proposed § 385.913(e) (now § 385.911(e)) to make clear the parties rights and responsibilities on administrative review. In proposed § 385.915, now § 385.913, FMCSA made changes that mirror the changes to § 385.911(e) and also eliminated the requirement that the Agency must first obtain a suspension order prior to initiating a revocation proceeding. In proposed § 385.917 (now § 385.915), FMCSA changed the rule to give the Agency Official 15 days to respond to a petition for review of a denial of a petition for rescission. FMCSA amended proposed § 385.921, now § 385.919, to make clear that nothing in this rule precludes the Agency from taking action against a carrier for other violations.

New Subpart L consists of §§ 385.1001–385.1019. Sections 385.1001–385.1003 establish the applicability and defined terms relevant to reincarnated carriers under Subpart L. Sections 385.1005 and 385.1007 establish the prohibition against reincarnation and the factors for evaluating a violation. They are substantively the same as what was proposed, with minor changes to conform to the statutory language and § 386.73. Sections 385.1009–385.1019 contain the procedures for suspension and revocation, administrative review, rescission and penalties that are substantially the same as §§ 385.911–385.921. Subpart L is described in more detail in section-by-section explanation below.

Several other conforming changes were made throughout the document to update the regulatory text as a result of the renumbering of sections in Subpart K and the movement of other sections to Subpart L.

Section-by-Section Analysis

FMCSA amends 49 CFR Parts 385 and 386 in the following ways.

Subpart K—Pattern or Practice of Safety Violations by Motor Carrier Management Section 385.901

Section 385.901 remains primarily as proposed with one minor modification. FMCSA changed the regulatory text in § 385.901 to make clear that this rule applies to all entities registered or *required* to be registered under 49 U.S.C. 13902. The explanatory text in the NPRM made clear that all entities required to register are subject to this rule; these changes are designed to eliminate any ambiguity.

Section 385.903

The definitions of the terms Agency Official and officer remain as proposed. The term ''Agency Official'' is the Director of FMCSA's Office of Enforcement and Compliance or his or her designee. The term ''officer'' is identical to the statutory definition codified at 49 U.S.C. 31135. In response to comments requesting that the Agency define ''controlling influence,'' the Agency added the following definition to § 385.903: ''*Controlling influence''* means having or exercising authority, whether by act or omission, to direct some or all of a motor carrier's operational policy and/or safety management controls.''

Whether an officer exercises controlling influence is fact-specific. For example, controlling influence could be authority or responsibility over day-to-day vehicle maintenance, or it could be about implementing or failing to implement operational safety policies. Someone exercising controlling

influence could be directing others working on the company's behalf regarding compliance with safety management controls. That person could be an employee or an outside consultant engaged to oversee safety management controls or the workers that manage such controls. The degree to which a person exercises controlling influence is the degree to which his or her conduct affects the carrier's operation and safety performance. To determine whether, and to what degree, a person exercises controlling influence, the Agency will consider the individual's role in the company, irrespective of title, in the context of all available information about the company's operations.

To eliminate any potential confusion between the operating authority registration required under 49 U.S.C. 13902, which is subject to revocation under this rule, and USDOT registration required under 49 U.S.C. 31134, which is not subject to revocation under this rule, the Agency added the following definition of ''registration'' applicable to Subpart K: ''*Registration* means the registration required under 49 U.S.C. 13902, 49 CFR Part 365, and 49 CFR Part 368.''

Section 385.905

Section 385.905(a)(1) and (2) remain substantively as proposed. These paragraphs describe the conduct that could trigger suspension or revocation of a motor carrier's operating authority registration. The only non-substantive change substitutes the words ''49 U.S.C. Chapter 311, subchapter III'' for ''subchapter'' to make more clear that the safety regulations that could trigger the application of this rule are those promulgated under the authority of 49 U.S.C. Chapter 311, subchapter III. Section 385.905(b)(1) remains substantively as proposed, with one minor language change to make clear that the Agency Official may issue an order requiring compliance with FMSCA's safety requirements as a part of a suspension or revocation proceeding. Section 385.905(b)(2) remains as proposed. These paragraphs describe how the Agency would determine whether that conduct occurred.

Paragraph (a)(1) sets forth the Agency's authority to suspend or revoke the motor carrier's operating authority registration if it engages or has engaged in a pattern or practice of avoiding regulatory compliance or masking noncompliance. Paragraph (a)(2) sets forth the Agency's authority to suspend or revoke a motor carrier's operating authority registration if it permits any person to exercise controlling influence over the motor carrier's operations if that person engages or has engaged in a pattern or practice of avoiding regulatory compliance or masking noncompliance while acting on behalf of any motor carrier. For purposes of this rule, a person acts on behalf of a motor carrier when the person exercises controlling influence over part or all of the motor carrier's operations. Paragraph (b) authorizes FMCSA's Director of the Office of Enforcement and Compliance or his or her designee (the Agency Official) to exercise the authorities established in paragraph (a).

For purposes of clarity, the Agency deleted the substance of the reincarnated and affiliate carrier provisions that were proposed at § 385.905(a)(3) and (b)(3), and moved them to §§ 385.1005 and 385.1007.

Section 385.907

Section 385.907 remains as proposed. Under this section, the Agency Official determines whether a motor carrier or person acting on its behalf has avoided regulatory compliance or masked or otherwise concealed regulatory noncompliance based on the results of an investigation by FMCSA, State, or local enforcement personnel. This conduct includes failure to or concealing failure to: (1) comply with statutory or regulatory safety requirements; (2) comply with FMCSA, State, or local orders intended to redress violations of Federal regulatory safety requirements; (3) pay civil penalties for violations of regulatory safety requirements; or (4) respond to enforcement actions arising out of violations of regulatory safety requirements. Regulatory safety requirements include statutory or regulatory requirements prescribed under 49 U.S.C. Chapter 311, subchapter III, which include 49 U.S.C. sections 31131–31151 and 49 CFR Parts 380–387 and 390–398.

Section 385.909

The majority of this section remains as proposed. If the Agency Official concludes that the motor carrier or person acting on its behalf has failed, or concealed failure, to do one or more of the actions described in § 385.907, the Agency Official determines whether such conduct constitutes a pattern or practice of noncompliance or masking noncompliance by considering the factors set forth in this section. In response to comments, FMCSA clarifies the meaning of the factor in paragraph (e) by changing the regulatory text to state ''Safety compliance history, including pending or closed enforcement actions, if any.'' This change clarifies that the purpose of this factor is to evaluate a carrier's safety performance history. In addition, the Agency amended the title of this section to read ''Pattern or practice,'' to streamline the organization of Subpart K.

Section 385.911

For purposes of clarity, the Agency deleted the substance of proposed § 385.911, which set forth the factors for evaluating reincarnated and affiliate motor carriers, and moved it to § 385.1007. As a result of this change, FMCSA re-numbered proposed § 385.913 to § 385.911. This section authorizes the Agency Official to issue an order suspending the motor carrier's registration and establishes the procedures FMCSA will follow to suspend a motor carrier's registration, including administrative review. With the following exceptions, the substance of that section remains as proposed.

FMCSA changed the regulatory text in paragraph (a)(2) to make clear that any order triggering a revocation proceeding would have to be one directing compliance with safety requirements. FMCSA changed the regulatory text in paragraph (b)(4) to make clear that motor carriers (and by extension intervening persons) must state the factual or legal basis for their responses to an order to show cause issued under this section. Accordingly, and like safety rating proceedings under 49 CFR Part 385, a motor carrier or intervening person who alleges that the show cause order was issued in error has the burden of proof to demonstrate error. This paragraph is also consistent with the Agency's current practice under 49 U.S.C. 13905, which governs suspension and revocation proceedings.

FMCSA also changed the regulatory text in paragraph (d)(2)(i) to require that the Agency Official's suspension order include information on how to submit a petition for administrative review, which is described in paragraph (e) of this section. In addition, FMCSA amended the language of paragraph (e) (introductory paragraph) to include specific instructions on how to petition the Assistant Administrator for review of the Agency Official's order.

FMCSA changed the regulatory text in paragraph (e)(3) to make clear that the Agency Official must respond with legal argument or evidence to support issues a petitioner raises on review. The changes also make clear that the Agency Official may base his or her decision on direct or circumstantial evidence, including the reasonable inferences drawn from that evidence, in addition to

other types of documents and testimony. Paragraph (e)(4) makes clear that the Assistant Administrator's review is limited to those issues identified in the petition for review. The Assistant Administrator may, however, require the parties to produce additional evidence. If the petitioner does not provide the additional evidence requested, this paragraph authorizes the Assistant Administrator to dismiss the petition for review. This provision is consistent with the procedures for safety rating cases in 49 CFR part 385.

Changes to paragraph (e)(5) extend the Assistant Administrator's decision making period from 30 to 60 days. The Agency made this change acknowledging the heavy case load the Assistant Administrator carries as well as his or her limited resources.

Section 385.913

This section was proposed as § 385.915, but was renumbered to § 385.913. It establishes the procedures for revoking a motor carrier's operating authority registration for failure to comply with an order issued under Subpart K. To conform to existing Agency practices, this section was amended to eliminate the requirement that the Agency first obtain a suspension order prior to seeking revocation of a motor carrier's operating authority registration. This section now requires that the Agency determine that a motor carrier has willfully violated an order directing compliance for a period of at least 30 days before revoking operating authority registration, but that order is no longer required to be a suspension order issued under § 385.911, or even an order issued under part 385, subpart K. Changes to this section make clear that any order directing compliance with FMCSA's safety regulations and in effect for more than 30 days could form the basis for revocation under this section. Finally, FMCSA made changes to paragraph (b)(4) that are identical to the changes made at § 385.911(b)(4) and changes to paragraph (d)(2)(i) that are identical to the changes made at § 385.911(d)(2)(i).

The rest of the substance of this section remains as proposed.

Section 385.915

This section was proposed as § 385.917, but was renumbered to § 385.915. This section establishes the procedures for motor carriers and intervening persons to file petitions for rescission of an order issued under this rule. The Agency added a provision stating that a motor carrier is permitted to resume operations, so long as it is otherwise in compliance with FMCSA's requirements, as soon as a suspension order is rescinded. Although this was implied in the text as proposed, the Agency decided to change the regulatory text to make this clear. The Agency also made minor changes to make clear that a motor carrier that applies for and is granted registration after rescission of a revocation order would be subject to the new entrant requirements at 49 CFR part 385. The Agency made changes to paragraph (f), describing how to file a petition for review, that are identical to the changes made at § 385.911(e). Finally, the Agency added a new paragraph (g) (renumbering old paragraph (g) as paragraph (h)) that sets a time limit of 15 days for the Agency Official to respond to a petition for review. Previously, no time limit was set. New paragraph (h) allows the Assistant Administrator 60 days from service of the petition or a timely-filed response, whichever is later, to act on the petition.

Section 385.917

This section was proposed as § 385.919, but was renumbered to § 385.917. This section states that orders issued under the rule would not amend or supersede existing FMCSA orders, prohibitions, or requirements. The Agency amended this section to state, in addition, that suspension or revocation under this rule is not the exclusive remedy for FMCSA to pursue against motor carriers that violate the FMCSRs. It also states that nothing precludes FMCSA from taking enforcement action against a motor carrier's operating authority registration or USDOT registration for other conduct violating applicable statutes, regulations or FMCSA orders. FMCSA could take that action as a part of a separate proceeding, or in combination with a proceeding instituted under this rule.

Section 385.919

This section was proposed as § 385.921, but was renumbered to § 385.919. This section states that existing statutory civil and criminal penalties and sanctions could apply to motor carriers subject to enforcement under this rule. For example, among other things, FMCSA could also seek revocation of a motor carrier's USDOT number registration pursuant to its authority under 49 U.S.C. 31134(c).

Section 385.921

This section was proposed as § 385.923, but was renumbered to § 385.921. This section states that the regulations governing the service of documents and the computation of time at 49 CFR 386.6 and 386.8 would apply to proceedings under this rule, except as otherwise provided. The Agency made one minor change to this section. It now states that all documents served under subpart K must include a certificate of service.

Subpart L—Reincarnated and Affiliated Motor Carriers

Section 385.1001

This section establishes that Subpart L—Reincarnated and Affiliated Motor Carriers—applies to for-hire motor carriers holding or required to hold operating authority registration.

Section 385.1003

This section defines Agency Official, using the same definition that was proposed in § 385.903. It also defines a reincarnated or affiliated carrier as one with common ownership, common management, common control or common familial relationship. To eliminate any potential confusion between the operating authority registration required under 49 U.S.C. 13902, which is subject to revocation under this rule, and USDOT registration required under 49 U.S.C. 31134, which is not subject to revocation under this rule, the Agency added the following definition of ''registration'' applicable to Subpart L: ''*Registration* means the registration required under 49 U.S.C. 13902, 49 CFR part 365, and 49 CFR part 368.''

Section 385.1005

This section prohibits carriers from reincarnating or using affiliates to avoid compliance with safety requirements.

Section 385.1007

Section 385.1007 sets forth the factors the Agency Official evaluates to determine whether a carrier or carriers have violated the prohibition on reincarnating or using affiliates to avoid compliance with safety requirements. Paragraph (a) establishes that the Agency Official may issue an order to suspend or revoke one or more motor carriers' operating authority registration for violations of § 385.1005. Paragraph (b) establishes that the Agency Official must use the factors set forth at § 386.73 to determine whether a motor carrier has reincarnated or whether two or more motor carriers are affiliates. These factors are substantively the same as those that were in proposed § 385.911.

FMCSA recognizes that motor carriers may have legitimate business purposes for affiliating or changing their business identity and that this conduct is not *per se* unlawful. This rule is triggered only when one or more carriers reincarnate or affiliate for the purpose of avoiding

compliance or masking or concealing regulatory noncompliance or a history of noncompliance. Paragraph (c) identifies conduct that constitutes avoiding or concealing regulatory noncompliance or a history of noncompliance. The conduct in paragraph (c) is substantively similar to that which was proposed in § 385.907. The Agency made minor changes to the wording of the four proposed types of conduct and added a fifth type of conduct: avoiding being linked with a negative compliance history. These changes conform this rule to statutory language at 49 U.S.C. 31135(b)(1), which, in addition to prohibiting motor carriers from reincarnating or affiliating to avoid compliance, or mask or otherwise conceal non-compliance, also prohibits motor carriers from concealing a history of non-compliance. This change also aligns today's final rule with the pre-existing regulatory scheme at § 386.73, which uses identical language.

Section 385.1009

This section sets forth procedures for suspending a motor carrier's operating authority registration. These procedures are substantively the same as those in § 385.911, which apply to suspensions based on patterns or practices of safety violations. The only difference is that, because of the differences between engaging in pattern or practice of safety violations and reincarnating or affiliating to avoid regulatory compliance, there are no provisions for intervening persons.

Section 385.1011

This section sets forth procedures for revoking a motor carrier's operating authority registration. These procedures are substantively the same as those in § 385.913, which apply to suspensions based on patterns or practices of safety violations. The only difference is that this section does not contain a provision for intervening persons because there would not be an intervening person in a reincarnated or affiliated carrier case.

Section 385.1013

This section establishes motor carriers seeking to file petitions for rescission of an order issued under this rule should follow the procedures in § 385.915.

Section 385.1015

This section, which is identical to § 385.917, states that orders issued under the rule would not amend or supersede existing FMCSA orders, prohibitions, or requirements. In addition, suspension or revocation of operating authority under this rule is not the exclusive remedy for FMCSA to pursue against motor carriers that violate the FMCSRs. For example, among other things, FMCSA could also seek revocation of a motor carrier's USDOT number registration pursuant to its authority under 49 U.S.C. 31134(c).

Section 385.1017

This section establishes that motor carriers that violate 49 CFR part 385, subpart L are subject to civil or criminal penalties.

Section 385.1019

This section states that the regulations governing the service of documents and the computation of time at 49 CFR 386.6 and 386.8 would apply to proceedings under this rule. The Agency made one minor change to this section. It now states that all documents served under subpart L must include a certificate of service.

Appendix A to Part 386—Penalty Schedule; Violations of Notices and Orders

The substance of this section remains as proposed, with minor changes caused by the renumbering of sections in Subpart K and movement of others to Subpart L. This section establishes the penalty for operating in violation of an order suspending or revoking operating authority registration under this rule.

Rulemaking Analyses

Executive Order 12866 (Regulatory Planning and Review) as Supplemented by E.O. 13563 and DOT Regulatory Policies and Procedures

This action does not meet the criteria for a significant regulatory action, either as specified in Executive Order 12866, as supplemented by Executive Order 13563 (76 FR 3821, January 18, 2011) or within the meaning of the DOT regulatory policies and procedures (44 FR1103, February 26, 1979). The estimated economic costs of the rule do not exceed the $100 million annual threshold nor does the Agency expect the rule to have substantial Congressional or public interest. Therefore, this rule has not been formally reviewed by the Office of Management and Budget.

FMCSA assessed the potential costs associated with this rule. While there should be no cost associated with this rule, there could potentially be cost associated with the transfer to other firms of assets from motor carriers that have had their operating authority registration suspended or revoked. These State-level license and registration fees can total $3,200 per CMV, depending on weight. For an average carrier with 10 vehicles, the cost of re-registering the vehicles and returning them to operation for a different carrier would be an estimated $32,000. We estimate that the rule would have been applied six times in the year preceding this final rule, which would have created total societal costs of $192,000. Therefore, the costs of this rule will remain below the $100 million threshold for economic significance even if the Agency were to apply it to a much larger number of carriers each year. These costs will not reach the level of economic significance unless an unexpectedly large number of carriers is suspended which, as previously noted, is highly unlikely due to the egregious nature of the circumstances that would provoke action under this rule. As a result, these costs were found to be economically insignificant. Moreover, any transfer costs incurred could have been avoided by complying with the FMCSRs or declining to mask or otherwise conceal evidence of noncompliance with the FMCSRs. Motor carriers that have their operating authority registration suspended or revoked would lose revenue, but this revenue would be reallocated to other firms.

Additionally, FMCSA evaluated the effects of this final rule in accordance with Executive Order 12898 and determined that there are no environmental justice issues associated with its provisions nor any collective environmental impacts resulting from its promulgation. Environmental justice issues would be raised if there were ''disproportionate'' and ''high and adverse impact'' on minority or low-income populations. This NPRM is exempt from analysis under the National Environmental Policy Act due to a categorical exclusion (see below).

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with a population of less than 50,000.[2]

Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that

[2] Regulatory Flexibility Act (5 U.S.C. 601 et seq.) see National Archives at *http://www.archives.gov/federal-register/laws/regulatory-flexibility/601.html.*

agencies strive to lessen any adverse effects on these businesses. Under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), the rule is not expected to have a significant economic impact on a substantial number of small entities. Consequently, I certify the action would not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), FMCSA wants to assist small entities in understanding this rule so that they can better evaluate its effects on them. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact, Juan Moya, listed in the **FOR FURTHER INFORMATION CONTACT** section of this rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247).

Unfunded Mandates Reform Act of 1995

This rule would not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*), that would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $150.7 million (which is the value of $100 million in 2012 after adjusting for inflation) or more in any 1 year.

National Environmental Policy Act and Clean Air Act

FMCSA analyzed this Final Rule for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and determined under its environmental procedures Order 5610.1, published February 24, 2004 (69 FR 9680), that this action does not have any effect on the quality of the environment. Therefore, this Final Rule is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1, paragraph 6(u) of Appendix 2. The Categorical Exclusion under paragraph 6(u) relates to regulations implementing rules of practice for proceedings before the Assistant Administrator and to determine whether a motor carrier has failed to comply with applicable statutes and regulation and to issue an appropriate order to compel compliance, which is the focus of this rulemaking. A Categorical Exclusion determination is available for inspection or copying in the regulations.gov Web site listed under **ADDRESSES**.

In addition to the NEPA requirements to examine impacts on air quality, the Clean Air Act (CAA) as amended (42 U.S.C. 7401 *et seq.*) also requires FMCSA to analyze the potential impact of its actions on air quality and to ensure that FMCSA actions conform to State and local air quality implementation plans. No additional contributions to air emissions are expected from this rule and FMCSA expects the rule to not be subject to the Environmental Protection Agency's General Conformity Rule (40 CFR parts 51 and 93).

Paperwork Reduction Act

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

Executive Order 12630 (Taking of Private Property)

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

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (April 23, 1997, 62 FR 19885), requires that agencies issuing economically significant rules, which also concern an environmental health or safety risk that an Agency has reason to believe may disproportionately affect children, must include an evaluation of the environmental health and safety effects of the regulation on children. Section 5 of Executive Order 13045 directs an Agency to submit for a covered regulatory action an evaluation of its environmental health or safety effects on children. The FMCSA has determined that this rule is not a covered regulatory action as defined under Executive Order 13045. This determination is based on the fact that this rule is not economically significant under Executive Order 12866, because the changes in this rule would not have an impact of $100 million or more in any given year. In addition, this rule does not constitute an environmental health risk or safety risk that would disproportionately affect children.

Executive Order 13132 (Federalism)

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

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Executive Order 13211 (Energy Supply, Distribution, or Use)

The FMCSA has analyzed this rule under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' This rule is not a significant energy action within the meaning of section 4(b) of the Executive Order. This rule is a procedural action, is not economically significant, and would not have a significant adverse effect on the supply, distribution, or use of energy.

Privacy Impact Analysis

FMCSA conducted a Privacy Threshold Analysis for the Final Rule and determined that the rulemaking has privacy implications that will be addressed by modifying the following two documentations: FMCSA Enforcement Management Information System, Privacy Impact Assessment and DOT/FMCSA 002 System of Records Notice for Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases. These documents have been placed in the docket.

List of Subjects

49 CFR Part 385

Administrative practice and procedure, Highway safety, Mexico, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements

49 CFR Part 386

Administrative practice and procedure, Brokers, Freight forwarders, Hazardous materials transportation, Highway safety, Motor carriers, Motor vehicle safety, Penalties.

For the reasons stated in the preamble, FMCSA amends title 49 CFR, Code of Federal Regulations, chapter III, as follows:

PART 385—SAFETY FITNESS PROCEDURES

■ 1. The authority citation for part 385 is revised to read as follows:

Authority: 49 U.S.C. 113, 504, 521(b), 5105(e), 5109, 13901–13905, 14701, 31133, 31135, 31136, 31137(a), 31144, 31148, and 31502; Sec. 113(a), Pub. L. 103–311; Sec. 408, Pub. L. 104–88; Sec. 350, Pub. L. 107–87; and 49 CFR 1.87.

■ 2. Add a new subpart K, consisting of §§ 385.901 through 385.921, to read as follows:

Subpart K—Pattern or Practice of Safety Violations by Motor Carrier Management

385.901 Applicability.
385.903 Definitions.
385.905 Suspension or revocation of registration.
385.907 Regulatory noncompliance.
385.909 Pattern or practice.
385.911 Suspension proceedings.
385.913 Revocation proceedings.
385.915 Petitions for rescission.
385.917 Other orders unaffected; not exclusive remedy.
385.919 Penalties.
385.921 Service and computation of time.

Subpart K—Pattern or Practice of Safety Violations by Motor Carrier Management

§ 385.901 Applicability.

The requirements in this subpart apply to for-hire motor carriers, employers, officers and persons registered or required to be registered under 49 U.S.C. 13902, 49 CFR part 365, and 49 CFR part 368. When used in this subpart, the term ''motor carrier'' includes all for-hire motor carriers, employers, officers and other persons, however designated, that are registered or required to be registered under 49 U.S.C. 13902, 49 CFR part 365, and 49 CFR part 368.

§ 385.903 Definitions.

As used in this subpart:

Agency Official means the Director of FMCSA's Office of Enforcement and Compliance or his or her designee.

Controlling Influence means having or exercising authority, whether by act or omission, to direct some or all of a motor carrier's operational policy and/or safety management controls.

Officer means an owner, director, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor, and driver supervisor of a motor carrier, regardless of the title attached to those functions, and any person, however designated, exercising controlling influence over the operations of a motor carrier.

Registration means the registration required under 49 U.S.C. 13902, 49 CFR part 365, and 49 CFR part 368.

§ 385.905 Suspension or revocation of registration.

(a) *General.* (1) If a motor carrier engages or has engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations on commercial motor vehicle safety under 49 U.S.C. Chapter 311, subchapter III, FMCSA may suspend or revoke the motor carrier's registration.

(2) If a motor carrier permits any person to exercise controlling influence over the motor carrier's operations and that person engages in or has engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations on commercial motor vehicle safety 49 U.S.C. Chapter 311, subchapter III while acting on behalf of any motor carrier, FMCSA may suspend or revoke the motor carrier's registration.

(b) *Determination.* (1) The Agency Official may issue an order to revoke or suspend a motor carrier's registration, or require compliance with an order issued to redress violations of a statutory or regulatory requirement prescribed under 49 U.S.C. Chapter 311, subchapter III, upon a determination that the motor carrier engages or has engaged in a pattern or practice of avoiding regulatory compliance or masking or otherwise concealing regulatory noncompliance.

(2) The Agency Official may issue an order to revoke or suspend a motor carrier's registration, or require compliance with an order issued to redress violations of a statutory or regulatory requirement prescribed under 49 U.S.C. Chapter 311, subchapter III, upon a determination that the motor carrier permitted a person to exercise controlling influence over the motor carrier's operations if that person engages in or has engaged in a pattern or practice of avoiding regulatory compliance or masking or otherwise concealing regulatory noncompliance.

§ 385.907 Regulatory noncompliance.

A motor carrier or person acting on behalf of a motor carrier avoids regulatory compliance or masks or otherwise conceals regulatory noncompliance by, independently or on behalf of another motor carrier, failing to or concealing failure to:

(a) Comply with statutory or regulatory requirements prescribed under 49 U.S.C., Chapter 311, subchapter III;

(b) Comply with an FMCSA or State order issued to redress violations of a statutory or regulatory requirement prescribed under 49 U.S.C., Chapter 311, subchapter III;

(c) Pay a civil penalty assessed for a violation of a statutory or regulatory requirement prescribed under 49 U.S.C., Chapter 311, subchapter III; or

(d) Respond to an enforcement action for a violation of a statutory or regulatory requirement prescribed under 49 U.S.C., Chapter 311, subchapter III.

§ 385.909 Pattern or practice.

The Agency Official may determine that a motor carrier or person acting on behalf of a motor carrier engages or has engaged in a pattern or practice of avoiding regulatory compliance, or masking or otherwise concealing regulatory noncompliance for purposes of this subpart, by considering, among other things, the following factors, which, in the case of persons acting on behalf of a motor carrier, may be related to conduct undertaken on behalf of any motor carrier:

(a) The frequency, remoteness in time, or continuing nature of the conduct;

(b) The extent to which the regulatory violations caused by the conduct create a risk to safety;

(c) The degree to which the conduct has affected the safety of operations, including taking into account any crashes, deaths, or injuries associated with the conduct;

(d) Whether the motor carrier or person acting on a motor carrier's behalf knew or should have known that the conduct violated applicable statutory or regulatory requirements;

(e) Safety performance history, including pending or closed enforcement actions, if any;

(f) Whether the motor carrier or person acting on a motor carrier's behalf engaged in the conduct for the purpose of avoiding compliance or masking or otherwise concealing noncompliance; and

(g) In the case of a person acting on a motor carrier's behalf, the extent to which the person exercises a controlling influence on the motor carrier's operations.

§ 385.911 Suspension proceedings.

(a) *General.* The Agency Official may issue an order to suspend a motor carrier's registration based on a determination made in accordance with § 385.905(b).

(b) *Commencement of proceedings.* The Agency Official commences a proceeding under this section by serving an order to show cause to the motor carrier and, if the proceeding is based on the conduct of another person, by also serving a copy on the person alleged to have engaged in the pattern or practice that resulted in a proceeding instituted under this section, which:

(1) Provides notice that the Agency is considering whether to suspend the motor carrier's registration;

(2) Provides notice of the factual and legal basis for the order;

(3) Directs the motor carrier to show good cause within 30 days of service of the order to show cause why its registration should not be suspended;

(4) Informs the motor carrier that its response to the order to show cause must be in writing, state the factual and legal basis for its response, and include all documentation, if any, the motor carrier wants considered;

(5) Informs the motor carrier of the address and name of the person to whom the response should be directed and served;

(6) Provides notice to the person(s) alleged to have engaged in the pattern or practice that resulted in the proceeding instituted under this section, if any, of their right to intervene in the proceeding; and

(7) Informs the motor carrier that its registration will be suspended on the 35th day after service of the order, if the motor carrier or an intervening person does not respond to the order.

(c) *Right of individual person(s) to intervene.* A person(s) alleged to have engaged in the pattern or practice that resulted in a proceeding under this section may intervene in the proceeding. The person(s) may—but are not required to—serve a separate response and supporting documentation to an order served under paragraph (b) of this section, within 30 days of being served with the order. Failure to timely serve a response constitutes waiver of the right to intervene.

(d) *Review of response.* The Agency Official will review the responses to the order to show cause and determine whether the motor carrier's registration should be suspended.

(1) The Agency Official may take the following actions:

(i) If the Agency Official determines that the motor carrier's registration should be suspended, he or she will enter an order suspending the registration;

(ii) If the Agency Official determines that it is not appropriate to suspend the motor carrier's registration, he or she may enter an order directing the motor carrier to correct compliance deficiencies; or

(iii) If the Agency Official determines the motor carrier's registration should not be suspended and a compliance order is not warranted, he or she will enter an order terminating the proceeding.

(2) If the Agency Official issues an order to suspend the motor carrier's registration, the order will:

(i) Provide notice to the motor carrier and any intervening person(s) of the right to petition for administrative review of the order within 15 days of service of the order suspending registration, and provide notice of the procedures in paragraph (e) of this section;

(ii) Provide notice that a timely petition for administrative review will stay the effective date of the order unless the Assistant Administrator orders otherwise for good cause; and

(iii) Provide notice that failure to timely serve a petition for administrative review constitutes waiver of the right to contest the order suspending the registration and will result in the order becoming a Final Agency Order 20 days after it is served.

(e) *Administrative review.* The motor carrier or the intervening person(s) may petition the Assistant Administrator for review of an order issued under paragraph (d)(1)(i) of this section. The petition must be in writing and served on the Assistant Administrator. Service on the Assistant Administrator is effected by delivering a copy to USDOT Dockets, Docket Operations, 1200 New Jersey Avenue, West Building Ground Floor, Room 12–140, SE., Washington, DC 20590–0001 or by submitting the documents electronically to *www.regulations.gov*. The petition must also be served on all parties to the proceedings and on Adjudications Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590–0001.

(1) A petition for review must be served within 15 days of the service date of the order for which review is requested. Failure to timely serve a request for review waives the right to request review.

(2) A petition for review must include:

(i) A copy of the order in dispute;

(ii) A copy of the petitioner's response to the order in dispute, with supporting documents if any;

(iii) A statement of all legal, factual and procedural issues in dispute; and

(iv) Written argument in support of the petitioner's position regarding the legal, factual or procedural issues in dispute.

(3) The Agency Official must serve a response to the petition for review no later than 15 days following receipt of the petition. The Agency Official must address each assignment of error by producing evidence or legal argument which supports the Agency Official's determination on that issue. The Agency Official's determination may be supported by circumstantial or direct evidence and the reasonable inferences drawn therefrom.

(4) The Assistant Administrator's review is limited to the legal, factual and procedural issues identified in the petition for review. The Assistant Administrator may, however, ask the parties to submit additional information. If the petitioner does not provide the information requested, the Assistant Administrator may dismiss the petition for review.

(5) The Assistant Administrator will serve a written decision on the petition for review within 60 days of the close of the time period for serving a response to the petition for review or the date of service of the response served under paragraph (e)(3), whichever is later.

(6) If a petition for review is timely served in accordance with this section, the disputed order is stayed, pending the Assistant Administrator's review. The Assistant Administrator may enter an order vacating the automatic stay in accordance with the following procedures:

(i) The Agency Official may file a motion to vacate the automatic stay demonstrating good cause why the order should not be stayed. The Agency Official's motion must be in writing, state the factual and legal basis for the motion, be accompanied by affidavits or other evidence relied on, and be served on all parties.

(ii) Within 10 days of service of the motion to vacate the automatic stay, the petitioner may serve an answer in opposition, accompanied by affidavits or other evidence relied on.

(iii) The Assistant Administrator will issue a decision on the motion to vacate within 10 days of the close of the time period for serving the answer to the

motion. The 60-day period for a decision on the petition for review in paragraph (e)(5) of this section does not begin until the Assistant Administrator issues a decision on the motion to vacate the stay.

(7) The Assistant Administrator's decision on a petition for review of an order issued under this section constitutes the Final Agency Order.

§ 385.913 Revocation proceedings.

(a) *General.* The Agency Official may issue an order to revoke a motor carrier's registration, if he or she:

(1) Makes a determination in accordance with § 385.905(b), and

(2) Determines that the motor carrier has willfully violated any order directing compliance with any statutory or regulatory requirement prescribed under 49 U.S.C., Chapter 311, subchapter III for a period of at least 30 days.

(b) *Commencement of proceedings.* The Agency Official commences a proceeding under this section by serving an order to show cause to the motor carrier and, if the proceeding is based on the conduct of another person, by also serving a copy on the person alleged to have engaged in the pattern or practice that resulted in a proceeding instituted under this section, which:

(1) Provides notice that the Agency is considering whether to revoke the motor carrier's registration;

(2) Provides notice of the factual and legal basis for the order;

(3) Directs the motor carrier to comply with a statute, regulation or condition of its registration;

(4) Informs the motor carrier that the response to the order to show cause must be in writing, state the factual and legal basis for its response and include all documentation, if any, the motor carrier wants considered;

(5) Informs the motor carrier of the address and name of the person to whom the response should be directed and served;

(6) Provides notice to the person, if any, of his or her right to intervene in the proceeding within 30 days of service of the order; and

(7) Informs the motor carrier that its registration may be revoked on the 35th day after service of the order issued under this section if the motor carrier or intervening person has not demonstrated, in writing, compliance with the order, or otherwise shown good cause why compliance is not required or the registration should not be revoked.

(c) *Right of individual person(s) to intervene.* A person(s) alleged to have engaged in the pattern or practice that resulted in a proceeding instituted under this section may intervene in the proceeding. The person(s) may—but are not required to—serve a separate response and supporting documentation to an order served under paragraph (b) of this section, within 30 days of being served with the order. Failure to timely serve a response constitutes waiver of the right to intervene. If the Agency Official previously issued an order under § 385.911 based on the same conduct, a person who was given the opportunity to but did not intervene under § 385.911(c) may not intervene under this section.

(d) *Review of response.* The Agency Official will review the response(s) to the order and determine whether the motor carrier's registration should be revoked.

(1) The Agency Official will take one of the following actions:

(i) If the Agency Official determines the motor carrier's registration should be revoked, he or she will enter an order revoking the motor carrier's registration; or

(ii) If the Agency Official determines the motor carrier's registration should not be revoked, he or she will enter an order terminating the proceeding.

(2) If the Agency Official issues an order to revoke the motor carrier's registration, the order will:

(i) Provide notice to the motor carrier and any intervening person(s) of the right to petition for administrative review of the order within 15 days of service of the order revoking the motor carrier's registration, and provide notice of the procedures in § 385.911(e);

(ii) Provide notice that a timely petition for review will stay the effective date of the order unless the Assistant Administrator orders otherwise for good cause; and

(iii) Provide notice that failure to timely serve a petition for review constitutes waiver of the right to contest the order revoking the motor carrier's registration and will result in the order becoming a Final Agency Order 20 days after it is served.

(iv) Provide notice that a Final Agency Order revoking the motor carrier's registration will remain in effect and bar approval of any subsequent application for registration until rescinded by the Agency Official pursuant to § 385.915.

(e) *Administrative review.* The motor carrier or intervening person may petition the Assistant Administrator for review of an order issued under paragraph (d)(1)(i) of this section by following the procedures set forth in § 385.911(e).

§ 385.915 Petitions for rescission.

(a) A motor carrier or intervening person may submit a petition for rescission of an order suspending or revoking registration under this subpart based on action taken to correct the deficiencies that resulted in the suspension or revocation.

(b) A petition for rescission must be made in writing to the Agency Official.

(c) A petition for rescission must include a copy of the order suspending or revoking the motor carrier's registration, a factual statement identifying all corrective action taken, and copies of supporting documentation.

(d) The Agency Official will issue a written decision on the petition within 60 days of service of the petition. The decision will state the factual and legal basis for the decision.

(e) If the Agency Official grants the petition, the written decision under paragraph (d) is the Final Agency Order. Rescinding an order suspending a motor carrier's registration permits that motor carrier to resume operations so long as it is in compliance with all other statutory and regulatory requirements. Rescinding an order revoking a motor carrier's registration does not have the effect of reinstating the revoked registration. In order to resume operations in interstate commerce, the motor carrier whose registration was revoked must reapply for registration. If registration is granted, the motor carrier would also become subject to the new entrant regulations at 49 CFR part 385.

(f) If the Agency Official denies the petition, the petitioner may petition the Assistant Administrator for review of the denial. The petition must be in writing and served on the Assistant Administrator. Service on the Assistant Administrator is effected by delivering a copy to USDOT Dockets, Docket Operations, 1200 New Jersey Avenue, West Building Ground Floor, Room 12–140 SE., Washington, DC 20590–0001 or by submitting the documents electronically to *www.regulations.gov*. The petition must also be served on all parties to the proceedings and on Adjudications Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590–0001. The petition for review of the denial must be served within 15 days of the service of the decision denying the petition for rescission. The petition for review must identify the legal, factual or procedural issues in dispute with respect to the denial of the petition for rescission. The petition for review may not, however, challenge the basis of the underlying suspension or revocation order.

(g) The Agency Official may file a written response within 15 days of receipt of the petition for review.

(h) The Assistant Administrator will issue a written decision on the petition for review within 60 days of service of the petition for review or a timely served response, whichever is later. The Assistant Administrator's decision constitutes the Final Agency Order.

§ 385.917 Other orders unaffected; not exclusive remedy.

If a motor carrier subject to an order issued under this subpart is or becomes subject to any other order, prohibition, or requirement of the FMCSA, an order issued under this subpart is in addition to, and does not amend or supersede the other order, prohibition, or requirement. Nothing in this subpart precludes FMCSA from taking action against any motor carrier under 49 U.S.C. 13905 or 49 U.S.C. 31134 for other conduct amounting to willful failure to comply with an applicable statute, regulation or FMCSA order.

§ 385.919 Penalties.

(a) Any motor carrier that the Agency determines engages or has engaged in a pattern or practice of avoiding regulatory compliance or masking noncompliance or violates an order issued under this subpart shall be subject to the civil or criminal penalty provisions of 49 U.S.C. 521(b) and applicable regulations.

(b) Any motor carrier who permits the exercise of controlling influence over its operations by any person that the Agency determines, under this subpart, engages in or has engaged in a pattern or practice of avoiding regulatory compliance or masking noncompliance while acting on behalf of any motor carrier, shall be subject to the civil or criminal penalty provisions of 49 U.S.C. 521(b) and applicable regulations.

§ 385.921 Service and computation of time.

Service of documents and computations of time will be made in accordance with §§ 386.6 and 386.8 of this subchapter. All documents that are required to be served or filed must be served or filed with a certificate of service.

■ 3. Add a new subpart L consisting of §§ 385.1001 through 385.1019, to read as follows:

Subpart L—Reincarnated Carriers

385.1001 Applicability.
385.1003 Definitions.
385.1005 Prohibition.
385.1007 Determination of violation.
385.1009 Suspension proceedings.
385.1011 Revocation proceedings.
385.1013 Petitions for rescission.
385.1015 Other orders unaffected; not exclusive remedy.
385.1017 Penalties.
385.1019 Service and computation of time.

Subpart L—Reincarnated Carriers

§ 385.1001 Applicability.

The requirements in this subpart apply to for-hire motor carriers registered or required to be registered under 49 U.S.C. 13902, 49 CFR part 365, and 49 CFR part 368.

§ 385.1003 Definitions.

As used in this subpart:

Agency Official means the Director of FMCSA's Office of Enforcement and Compliance or his or her designee.

Registration means the registration required under 49 U.S.C. 13902, 49 CFR part 365, and 49 CFR part 368.

Reincarnated or *affiliated motor carriers* means motor carriers with common ownership, common management, common control or common familial relationship.

§ 385.1005 Prohibition.

Two or more motor carriers shall not use common ownership, common management, common control, or common familial relationship to enable any or all such motor carriers to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with statutory or regulatory requirements prescribed under 49 U.S.C. Chapter 311, subchapter III, or with an order issued under such requirements.

§ 385.1007 Determination of violation.

(a) *General.* The Agency Official may issue an order to suspend or revoke the registration of one or more motor carriers if he or she determines that the motor carrier or motor carriers have reincarnated or affiliated to avoid regulatory compliance or mask or otherwise conceal regulatory noncompliance, or a history of noncompliance.

(b) *Reincarnation or affiliation.* The Agency Official may determine that one or more motor carriers are reincarnated if there is substantial continuity between entities such that one is merely a continuation of the other. The Agency Official may determine that motor carriers are affiliates if business operations are under common ownership, common management, common control or common familial relationship. To make these determinations, the Agency Official may consider, among other things, the factors in 49 CFR 386.73(c) and examine, among other things, the records identified in 49 CFR 386.73(d).

(c) *Regulatory noncompliance.* The Agency Official may determine that a motor carrier or its officer, employee, agent, or authorized representative, avoids regulatory compliance or masks or otherwise conceals regulatory noncompliance, or a history of noncompliance by operating or attempting to operate a motor carrier as a reincarnated or affiliated entity to:

(1) Avoid complying with an FMCSA order;

(2) Avoid complying with a statutory or regulatory requirement;

(3) Avoid paying a civil penalty;

(4) Avoid responding to an enforcement action; or

(5) Avoid being linked with a negative compliance history.

§ 385.1009 Suspension proceedings.

(a) *General.* The Agency Official may issue an order to suspend a motor carrier's registration based on a determination made in accordance with § 385.1007.

(b) *Commencement of proceedings.* The Agency Official may commence a proceeding under this section by serving an order to one or more motor carriers which:

(1) Provides notice that the Agency is considering whether to suspend the motor carrier's registration;

(2) Provides notice of the factual and legal basis for the order;

(3) Directs the motor carrier to comply with a regulation or condition of its registration;

(4) Informs the motor carrier that the response to the order must be in writing, state the factual or legal basis for its response, and include all documentation, if any, the motor carrier wants considered;

(5) Informs the motor carrier of the address and name of the person to whom the response should be directed and served;

(6) Informs the motor carrier that its registration may be suspended on the 35th day after service of the order issued under this section if the motor carrier has not demonstrated, in writing, compliance with any compliance directive issued, or otherwise shown good cause why compliance is not required or the registration should not be suspended.

(c) *Review of response.* The Agency Official will review the responses to the order and determine whether the motor carrier's registration should be suspended.

(1) The Agency Official will take one of the following actions:

(i) If the Agency Official determines the motor carrier's registration should be suspended, he or she will enter an

order suspending the motor carrier's registration; or

(ii) If the Agency Official determines the motor carrier's registration should not be suspended, he or she will enter an order terminating the proceeding.

(2) If the Agency Official issues an order to suspend the motor carrier's registration, the order will:

(i) Provide notice to the motor carrier of the right to petition the Assistant Administrator for review of the order within 15 days of service of the order suspending the registration, and provide notice of the procedures in § 385.911(e);

(ii) Provide notice that a timely petition for review will stay the effective date of the order unless the Assistant Administrator orders otherwise for good cause; and

(iii) Provide notice that failure to timely serve a petition for review constitutes waiver of the right to contest the order suspending the motor carrier's registration and will result in the order becoming a Final Agency Order 20 days after it is served.

(iv) Provide notice that a Final Agency Order suspending the motor carrier's registration will remain in effect and bar approval of any subsequent application for registration until rescinded by the Agency Official pursuant to § 385.1013.

(d) *Administrative Review.* The motor carrier may petition the Assistant Administrator for review of an order issued under paragraph (c)(1)(i) of this section by following the procedures set forth in § 385.911(e).

§ 385.1011 Revocation proceedings.

(a) *General.* The Agency Official may issue an order to revoke a motor carrier's registration, if he or she:

(1) Makes a determination in accordance with § 385.1007, and

(2) Determines that the motor carrier has willfully violated an order directing compliance for a period of at least 30 days.

(b) *Commencement of proceedings.* The Agency Official commences a proceeding under this section by serving an order to one or more motor carriers, which:

(1) Provides notice that the Agency is considering whether to revoke the motor carrier's registration;

(2) Provides notice of the factual and legal basis for the order;

(3) Directs the motor carrier to comply with a statute, regulation or condition of its registration;

(4) Informs the motor carrier that the response to the show cause order must be in writing, state the factual or legal basis for its response, and include all documentation, if any, the motor carrier wants considered;

(5) Informs the motor carrier of the address and name of the person to whom the response should be directed and served; and

(6) Informs the motor carrier that its registration may be revoked on the 35th day after service of the order issued under this section if the motor carrier has not demonstrated, in writing, compliance with any order directing compliance, or otherwise shown good cause why compliance is not required or the registration should not be revoked.

(c) *Review of response.* The Agency Official will review the response(s) to the order and determine whether the motor carrier's registration should be revoked.

(1) The Agency Official will take one of the following actions:

(i) If the Agency Official determines the motor carrier's registration should be revoked, he or she will enter an order revoking the motor carrier's registration; or

(ii) If the Agency Official determines the motor carrier's registration should not be revoked, he or she will enter an order terminating the proceeding.

(2) If the Agency Official issues an order to revoke the motor carrier's registration, the order will:

(i) Provide notice to the motor carrier and any intervening person(s) of the right to petition the Assistant Administrator for review of the order within 15 days of service of the order revoking the motor carrier's registration, and provide notice of the procedures in § 385.911(e);

(ii) Provide notice that a timely petition for review will stay the effective date of the order unless the Assistant Administrator orders otherwise for good cause; and

(iii) Provide notice that failure to timely serve a petition for review constitutes waiver of the right to contest the order revoking the motor carrier's registration and will result in the order becoming a Final Agency Order 20 days after it is served.

(iv) Provide notice that a Final Agency Order revoking the motor carrier's registration will remain in effect and bar approval of any subsequent application for registration until rescinded by the Agency Official pursuant to § 385.1013.

(d) *Administrative review.* The motor carrier or intervening person may petition the Assistant Administrator for review of an order issued under paragraph (c)(1)(i) of this section by following the procedures set forth in § 385.911(e).

§ 385.1013 Petitions for rescission.

A motor carrier may submit a petition for rescission of an order suspending or revoking registration under this subpart by following the procedures set forth in § 385.915.

§ 385.1015 Other orders unaffected; not exclusive remedy.

If a motor carrier subject to an order issued under this subpart is or becomes subject to any other order, prohibition, or requirement of the FMCSA, an order issued under this subpart is in addition to, and does not amend or supersede the other order, prohibition, or requirement. Nothing in this subpart precludes FMCSA from taking action against any motor carrier under 49 U.S.C. 13905 for other conduct amounting to willful failure to comply with an applicable statute, regulation or FMCSA order.

§ 385.1017 Penalties.

Any motor carrier that the Agency determines to be in violation of this subpart shall be subject to the civil or criminal penalty provisions of 49 U.S.C. 521(b) and applicable regulations.

§ 385.1019 Service and computation of time.

Service of documents and computations of time will be made in accordance with §§ 386.6 and 386.8 of this subchapter. All documents that are required to be served or filed must be served or filed with a certificate of service.

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER, INTERMODAL EQUIPMENT PROVIDER, BROKER, FREIGHT FORWARDER, AND HAZARDOUS MATERIALS PROCEEDINGS

■ 4. The authority citation for part 386 continues to read as follows:

Authority: 49 U.S.C. 113, chapters 5, 51, 59, 131–141, 145–149, 311, 313, and 315; Sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); Sec. 217, Pub. L. 105–159, 113 Stat. 1748, 1767; Sec. 206, Pub. L. 106–159, 113 Stat. 1763; subtitle B, title IV of Pub. L. 109–59; and 49 CFR 1.81 and 1.87.

■ 5. In Appendix A to Part 386, add a new paragraph IV.j. to read as follows:

Appendix A to Part 386—Penalty Schedule; Violations of Notice and Orders

* * * * *

IV. * * *

j. Violation—Conducting operations during a period of suspension or revocation under §§ 385.911, 385.913, 385.1009 or 385.1011.

Penalty—Up to $11,000 for each day that operations are conducted during the suspension or revocation period.

Issued under the authority of delegation in 49 CFR 1.87.

Anne S. Ferro,

Administrator.

[FR Doc. 2014–01174 Filed 1–21–14; 8:45 am]

BILLING CODE 4910–EX–P

Proposed Rules

Federal Register
Vol. 79, No. 14
Wednesday, January 22, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

[NRC–2013–0263]

Unified Agenda of Federal Regulatory and Deregulatory Actions; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual regulatory agenda; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a notice that was published in the **Federal Register**, notifying the public of the availability of its semiannual regulatory agenda (the Agenda). The Agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This action is necessary to correct an incorrect NRC Docket ID.

DATES: This correction is effective January 22, 2014.

ADDRESSES: Please refer to Docket ID NRC–2013–0263 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–2013–0263. 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: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch, Office of Administration, Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–287–0949; email: *Cindy.Bladey@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC is correcting the NRC Docket ID in the notice published on January 7, 2014 (79 FR 1294). In Fr. Doc. 2013–29648, on page 1294, in the heading of the notice, ''NRC–2013–0076'' is corrected to read ''NRC–2013–0263.'' On page 1294, in the first column, in the third full sentence under the **ADDRESSES** section, ''NRC–2013–0076'' is corrected to read ''NRC–2013–0263.'' On page 1294, in the second column, in the first full sentence under the ''Accessing Information'' section, ''NRC–2013–0076'' is corrected to read ''NRC–2013–0263.'' On page 1294, in the second column, in the first bullet under the ''Accessing Information'' section, ''NRC–2013–0076'' is corrected to read ''NRC–2013–0263.'' On page 1294, in the second column, in the first full sentence under the ''Submitting Comments'' section, ''NRC–2013–0076'' is corrected to read ''NRC–2013–0263.''

Dated at Rockville, Maryland, this 16th day of January 2014.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2014–01155 Filed 1–21–14; 8:45 am]

BILLING CODE 7590–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052–AC42

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Mission-Related Investments, Rural Community Investments

AGENCY: Farm Credit Administration.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Farm Credit Administration (FCA) withdraws its rule on Rural Community Investments that would have authorized System institutions to make certain investments in rural communities. The FCA terminates this rulemaking.

DATES: The proposed rule published June 16, 2008 (73 FR 33931) is withdrawn as of January 22, 2014.

FOR FURTHER INFORMATION CONTACT:

Dennis K. Carpenter, Senior Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA, (703) 883–4434, TTY (703) 883–4056;

or

Mary Alice Donner, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION: On June 16, 2008, the Farm Credit Administration published a proposed rule on Rural Community Investments (73 FR 33931). We received over 10,000 comment letters providing support for or opposition to the proposed rule. After review and consideration of the proposed rule, we have decided to withdraw it. We will continue to review mission-related investments and may issue a proposed rule in the future if we determine that a rule of general applicability is appropriate. For related information on this topic, interested parties may visit our Web site at *www.fca.gov* under the News and Events tab.

Dated: January 15, 2014.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2014–01070 Filed 1–21–14; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0961; Airspace Docket No. 13–AEA–13]

RIN 2120–AA66

Proposed Amendment of VOR Federal Airways V–35 and V–267; Eastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify VHF omnidirectional range (VOR) Federal airways V–35 and V–276 due to the scheduled decommissioning of the Tyrone, PA, VORTAC facility, which provides navigation guidance for portions of the routes. Once the VORTAC is decommissioned, the FAA plans a waypoint to be established for point-to-point area navigation for continued safety and management within the National Airspace System.

DATES: Comments must be received on or before March 10, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2013–0961 and Airspace Docket No. 13–AEA–13 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2013–0961 and Airspace Docket No. 13–AEA–13) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2013–0961 and Airspace Docket No. 13–AEA–13.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM's

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA, 30337.

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

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify VOR Federal airways V–35 and V–276 due to the planned decommissioning of the Tyrone, PA, VORTAC. The Tyrone VORTAC, which provides navigation signal guidance for portions of the routes, has been inoperable for a sustained period of time and is not planned for replacement. The FAA plans to establish a waypoint over the Tyrone VORTAC location that could be used for point-to-point area navigation (RNAV) once the VORTAC is decommissioned.

In light of the planned VORTAC decommissioning, the FAA conducted an analysis of the air traffic usage of V–35 and V–276 and found that some segments of both airways experienced low utilization in the general area of the Tyrone VORTAC. Consequently, the FAA is proposing to remove the underutilized segments in both airways.

V–35 extends between Dolphin, FL, and Syracuse, NY. Analysis of the V–35 traffic around the Tyrone VORTAC showed that the airway is rarely used in that area. Based on that analysis, the FAA proposes to remove that portion of the airway between Morgantown, WV and Philipsburg, PA. This would eliminate the V–35 route segments from Morgantown, WV, through Indian Head, PA, Johnstown, PA, and Tyrone, PA to Philipsburg, PA. As proposed, the modified V–35 would extend between Dolphin, FL, and Morgantown, WV; and between Philipsburg, PA, and Syracuse, NY. This would leave a gap in airway continuity between Morgantown and Philipsburg.

V–276 now extends between Erie, PA, and an intersection of radials from the Robbinsville, NJ, and Coyle, NJ, VORTACs (i.e., the PREPI intersection). Due to low air traffic usage, the FAA proposes to eliminate the segments of V–276 between Erie, PA, and the intersection of radials from the Philipsburg, PA, and Ravine, PA, VORTACs (i.e., RASHE intersection). The modified V–276 would thus extend from the RASHE intersection, then proceed along its currently charted track through Ravine, PA, Yardley, PA, and Robbinsville, NJ, to the PREPI intersection.

Where new radials are proposed in the route descriptions, below, both True and Magnetic degrees are stated. Otherwise, only True degrees are listed.

VOR Federal airways are published in paragraph 6010, of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document would be subsequently published in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

Therefore, this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as required to preserve the safe and efficient flow of air traffic within the eastern United States.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013 and effective September 15, 2013, is amended as follows:

Paragraph 6010 Domestic VOR Federal Airways

V–35

From Dolphin, FL; INT Dolphin 266° and Cypress, FL, 110° radials; INT Cypress 110° and Lee County, FL, 138° radials; Lee County; INT Lee County 326° and St. Petersburg, FL, 152° radials; St. Petersburg; INT St. Petersburg 350° and Cross City, FL, 168° radials; Cross City; Greenville, FL; Pecan, GA; Macon, GA; INT Macon 005° and Athens, GA, 195° radials; Athens; Electric City, SC; Sugarloaf Mountain, NC; Holston Mountain, TN; Glade Spring, VA; Charleston, WV; INT Charleston 051° and Elkins, WV, 264° radials; Clarksburg, WV to Morgantown, WV. From Philipsburg, PA; Stonyfork, PA; Elmira, NY; Syracuse, NY. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

V–276

From INT Philipsburg, PA 132°(T)/142°(M) and Ravine, PA 279°(T)/290°(M) radials; Ravine; Yardley, PA; Robbinsville, NJ; to INT Robbinsville 112° and Coyle, NJ, 090° radials.

Issued in Washington, DC, on January 15, 2014.

Gary A. Norek,

Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–01180 Filed 1–21–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–1062; Airspace Docket No. 13–ACE–3]

RIN 2120–AA66

Proposed Modification of Air Traffic Service (ATS) Routes; North Central United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify three Jet Routes (J–45, J–151, and J–233) and a high altitude area navigation (RNAV) route (Q–19). The FAA is proposing this action due to a service restriction of the Des Moines, IA (DSM), VHF Omnidirectional Range (VOR)/Tactical Air Navigation (VORTAC) facility that provides navigation guidance for a portion of the ATS routes. This action would enhance the safety and efficient management of aircraft flying within the National Airspace System (NAS).

DATES: Comments must be received on or before March 10, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2013–1062 and Airspace Docket No. 13–ACE–3 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2013–1062 and Airspace Docket No. 13–ACE–3) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2013–1062 and Airspace Docket No. 13–ACE–3.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments

received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, Operations Support Group, Federal Aviation Administration, 2601 Meacham Blvd., Fort Worth, TX 76137.

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

Background

The DSM VOR was initially identified as unstable after a flight check was conducted on the instrument approach procedures at Chariton Municipal Airport, Chariton, IA, in September 2009. The VOR was determined to be unusable from the 111 degree radial clockwise to the 169 degree radial and a Notice to Airmen (NOTAM) was issued. In January 2012, another flight inspection was flown following Technical Operations maintenance actions having been accomplished. Increased radial restrictions were documented by that flight inspection and the NOTAM was updated to reflect the DSM VOR 085 degree radial clockwise to the 184 degree radial as unusable. The VOR antenna, antenna bridges, and cabling were replaced and a special flight inspection conducted. The flight inspection reduced the VOR restriction to reflect from the 095 degree radial clockwise to the 150 degree radial, which remains published today.

The DSM VOR restrictions are caused by external structural signal reflections that numerous maintenance corrective actions have failed to correct. As a result, the ATS routes, fixes, and procedures that are affected by the VOR restriction must be amended. Having exhausted maintenance corrective action alternatives, the FAA is proposing to reroute the NAS jet route structure that is affected by the DSM VOR restriction and extend an existing high altitude RNAV route to retain the direct routing between the St. Louis, MO (STL), and DSM VORTACs for aircraft capable of flying RNAV.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Jet Routes J–45, J–151, and J–233, and high altitude RNAV route Q–19 to address route impacts caused by the DSM VOR radials restricted from use. The Des Moines, IA, VORTAC facility restriction has made this action necessary. The proposed route modification actions are outlined below.

J–45: J–45 extends between Virginia Key, FL, and Aberdeen, SD. The FAA proposes to amend the route segment between the STL and DSM VORTACs by relocating it over the Kirksville, MO (IRK) VORTAC. The proposed amendment would extend the route by approximately four nautical miles (NM), but retains a route structure between STL and DSM.

J–151: J–151 extends between Cross City, FL and Whitehall, MT. The FAA proposes to relocate the route segment between STL and the O'Neil, NE (ONL) VORTAC further west from its current routing by overflying the IRK and Omaha, NE (OVR), VORTACs. This would result in a near direct route from STL to ONL; providing a 12.5 NM reduction in the route length.

J–233: J–233 extends between Waterloo, IA (ALO), and STL. Unfortunately, a portion of the route between STL and the intersection of the STL 318° and ALO 184° radials (COLIE to SKBOZ fixes) failed an extended service volume flight check and is not usable. The FAA proposes to replace the route intersection noted above with the IRK VORTAC to overcome the extended service volume issue. This would move the existing dogleg in the route approximately 26 NM south of its current position, but only add approximately 10 NM to the route's length.

Q–19: Q–19 extends between Nashville, TN (BNA), and the PLESS fix, overlying a portion of J–45. The FAA proposes to extend Q–19 northeast from the PLESS fix to DSM to retain a direct routing capability between STL and DSM for aircraft capable of flying RNAV routes. This proposed RNAV route extension would replace the portion of J–45 between STL and DSM, addressed above, that is proposed to be relocated and furthers the transition within the NAS to an RNAV route structure in support of the NextGen initiative.

The navigation aid radials cited in the proposed Jet Route and high altitude RNAV route descriptions, below, are stated relative to True north.

Jet Routes are published in paragraph 2004 and high altitude RNAV routes (Q) are published in paragraph 2006, respectively, of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Jet Routes and high altitude RNAV route listed in this document would be subsequently published in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the NAS.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013 and effective September 15, 2013, is amended as follows:

Paragraph 2004 Jet Routes

J–45 [Amended]

From Virginia Key, FL; INT Virginia Key 014° and Treasure, FL, 143° radials; Treasure; INT Treasure 330° and Ormond Beach, FL, 183° radials; Ormond Beach; Craig, FL; Alma, GA; Macon, GA; Atlanta, GA; Nashville, TN; St Louis, MO; Kirksville, MO; Des Moines, IA; Sioux Falls, SD; to Aberdeen, SD.

* * * * *

J–151 [Amended]

From Cross City, FL; Vulcan, AL; Farmington, MO; St. Louis, MO; Kirksville, MO; Omaha, NE; O'Neil, NE; Rapid City, SD; Billings, MT; INT Billings 266° and Whitehall, MT, 103° radials; to Whitehall.

* * * * *

J–233 [Amended]

From Waterloo, IA; Kirksville, MO; to St. Louis, MO.

* * * * *

Paragraph 2006 United States Area Navigation Routes

Q–19 Nashville, TN (BNA) to Aberdeen, SD (ABR) [Amended]

Nashville, TN (BNA)	VORTAC	(Lat. 36°08′13″ N., long. 86°41′05″ W.)
PLESS, IL	Fix	(Lat. 37°48′35″ N., long. 88°57′48″ W.)
St. Louis, MO (STL)	VORTAC	(Lat. 38°51′38″ N., long. 90°28′57″ W.)
Des Moines, IA (DSM)	VORTAC	(Lat. 41°26′15″ N., long. 93°38′55″ W.)
Sioux Falls, SD (FSD)	VORTAC	(Lat. 43°38′58″ N., long. 96°46′52″ W.)
Aberdeen, SD (ABR)	VOR/DME	(Lat. 45°25′02″ N., long. 98°22′07″ W.)

* * * * *

Issued in Washington, DC, on January 15, 2014.

Gary A. Norek,

Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–01178 Filed 1–21–14; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

RIN 3038–AD82

Aggregation of Positions

Correction

In proposed rule document 2014–00496, appearing on pages 2394–2395, in the issue of Tuesday, January 14, 2014, make the following correction:

On page 2394, in the second column, the subject heading is corrected to read as set forth above.

[FR Doc. C1–2014–00496 Filed 1–21–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM14–1–000]

Reliability Standard for Geomagnetic Disturbance Operations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to section 215 of the Federal Power Act, the Federal Energy Regulatory Commission (Commission) proposes to approve Reliability Standard EOP–010–1 (Geomagnetic Disturbance Operations). The North American Electric Reliability Corporation, the Commission-certified Electric Reliability Organization, submitted the proposed Reliability Standard for Commission approval in response to a Commission directive in Order No. 779. Proposed Reliability Standard EOP–010–1 is designed to mitigate the effects of geomagnetic disturbances on the Bulk-Power System by requiring responsible entities to implement Operating Plans and Operating Procedures or Processes.

DATES: Comments are due March 24, 2014.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

Michael Gandolfo (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6817, *Michael.Gandolfo@ferc.gov.*

Matthew Vlissides (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8408, *Matthew.Vlissides@ferc.gov.*

SUPPLEMENTARY INFORMATION:

146 FERC ¶ 61,015

Before Commissioners: Cheryl A. LaFleur, Acting Chairman; Philip D. Moeller, John R. Norris, and Tony Clark.

(Issued January 16, 2014)

1. Pursuant to section 215 of the Federal Power Act (FPA),[1] the Commission proposes to approve Reliability Standard EOP–010–1 (Geomagnetic Disturbance Operations). The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), submitted the proposed Reliability Standard for Commission approval in response to a Commission directive in Order No. 779.[2] The proposed Reliability Standard is designed to mitigate the effects of geomagnetic disturbances (GMDs) on the Bulk-Power System by requiring responsible entities to implement Operating Plans and Operating Procedures or Processes. The Commission also proposes to approve the associated violation risk factors and violation severity levels, implementation plan, and effective dates proposed by NERC.

I. Background

A. Section 215 and Mandatory Reliability Standards

2. Section 215 of the FPA requires the Commission to certify an ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval.[3] Once approved, the Reliability Standards may be enforced in the United States by the ERO, subject to Commission oversight, or by the Commission independently.[4]

B. Order No. 779

3. In Order No. 779, the Commission directed NERC, pursuant to FPA section 215(d)(5), to develop and submit for approval proposed Reliability Standards that address the impact of GMDs on the reliable operation of the Bulk-Power System. The Commission based its directive on the potentially severe, wide-spread impact on the reliable operation of the Bulk-Power System that can be caused by GMD events and the absence of existing Reliability Standards to address GMD events.[5]

4. The Commission directed NERC to implement the directive in two stages. In the first stage, the Commission directed NERC to submit, within six months of the effective date of Order No. 779, one or more Reliability Standards (First Stage GMD Reliability Standards) that require owners and operators of the Bulk-Power System to develop and implement operational procedures to mitigate the effects of GMDs consistent with the reliable operation of the Bulk-Power System.[6]

5. In the second stage, the Commission directed NERC to submit, within 18 months of the effective date of Order No. 779, one or more Reliability Standards (Second Stage GMD Reliability Standards) that require owners and operators of the Bulk-Power System to conduct initial and on-going assessments of the potential impact of benchmark GMD events on Bulk-Power System equipment and the Bulk-Power System as a whole. Order No. 779 directed that the Second Stage GMD Reliability Standards must identify benchmark GMD events that specify what severity GMD events a responsible entity must assess for potential impacts on the Bulk-Power System.[7] Order No. 779 explained that, if the assessments identify potential impacts from benchmark GMD events, the Reliability Standards should require owners and operators to develop and implement a plan to protect against instability, uncontrolled separation, or cascading failures of the Bulk-Power System, caused by damage to critical or vulnerable Bulk-Power System equipment, or otherwise, as a result of a benchmark GMD event. The Commission directed that the development of this plan could not be limited to considering operational procedures or enhanced training alone, but should, subject to the potential impacts of the benchmark GMD events identified in the assessments, contain strategies for protecting against the potential impact of GMDs based on factors such as the age, condition, technical specifications, system configuration, or location of specific equipment.[8] Order No. 779 observed that these strategies could, for example, include automatically blocking geomagnetically induced currents from entering the Bulk-Power System, instituting specification requirements for new equipment, inventory management, isolating certain equipment that is not cost effective to retrofit, or a combination thereof.

C. NERC Petition

6. On November 13, 2013, NERC petitioned the Commission to approve proposed Reliability Standard EOP–010–1 and its associated violation risk factors and violation severity levels, implementation plan, and effective dates. NERC states that the proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. Further, NERC maintains that the proposed Reliability Standard satisfies the Commission's directive in Order No. 779 corresponding to the development and submission of the First Stage GMD Reliability Standards.

7. NERC states that, consistent with Order No. 779 and the NERC Functional Model, proposed Reliability Standard EOP–010–1 applies to reliability coordinators and to transmission operators with a ''Transmission Operator Area that includes a power transformer with a high side wye-grounded winding with terminal voltage greater than 200 kV.'' [9] NERC explains that the proposed Reliability Standard has three requirements: (1) Requirement R1 addresses coordination by reliability coordinators within their areas; (2) Requirement R2 addresses the dissemination of space weather information by reliability coordinators to ensure that entities within a reliability coordinator area have the appropriate information necessary to take action and that the same information is available to all entities; and (3) Requirement R3 requires transmission operators to develop GMD Operating Procedures or Processes.

8. NERC states that Requirement R1 requires reliability coordinators to develop, maintain, and implement a GMD Operating Plan that coordinates the GMD Operating Procedures or Operating Processes within the reliability coordinator area.[10] NERC explains that reliability coordinators are required to ensure that GMD Operating Procedures and Operating Processes in a reliability coordinator area are not in conflict, but reliability coordinators will not review the technical aspects of the GMD Operating Procedures and Operating Processes.[11] Instead, NERC

[1] 16 U.S.C. 824o.

[2] *Reliability Standards for Geomagnetic Disturbances,* Order No. 779, 78 FR 30747 (May 23, 2013), 143 FERC ¶ 61,147, *reh'g denied,* 144 FERC ¶ 61,113 (2013).

[3] 16 U.S.C. 824o.

[4] *Id.* 824o(e).

[5] Order No. 779, 143 FERC ¶ 61,147 at P 3.

[6] *Id.* P 2.

[7] *Id.*

[8] *Id.*

[9] NERC Petition at 8 (''A power transformer with a 'high side wye-grounded winding' refers to a power transformer with windings on the high voltage side that are connected in a wye configuration and have a grounded neutral connection.'').

[10] Operating Plan, Operating Procedure, and Operating Process are existing terms defined in the Glossary of Terms Used in NERC Reliability Standards. *See* Glossary of Terms Used in NERC Reliability Standards (effective November 21, 2013) at 49–50.

[11] NERC explains that ''if Company A submitted an Operating Procedure proposing to take Line X out of service under specified GMD conditions, and Company B submitted an Operating Procedure that relies on Line X remaining in service in the event of a GMD—it is the responsibility of the Reliability Coordinator to *identify* this conflict.'' NERC Petition at 11–12 (emphasis in original). Beyond identifying

points out that transmission operators will be responsible for the technical aspects of their Operating Procedures and Operating Processes. NERC further states that Requirement R1 requires reliability coordinators to describe the activities that must be undertaken in order to mitigate the effects of a GMD event. NERC explains that, pursuant to Reliability Standard IRO–001–1.1, reliability coordinators have decision-making authority to act and to direct actions to be taken by transmission operators, balancing authorities, generator operators, transmission service providers, load-serving entities, and purchasing-selling entities within their reliability coordinator area to preserve the reliability of the bulk electric system.

9. NERC states that Requirement R2 requires reliability coordinators to disseminate space weather information to ensure coordination and consistent awareness in its reliability coordinator area. NERC maintains that entrusting this responsibility to reliability coordinators is appropriate given the reliability coordinator's wide-area view. NERC also explains that Requirement R2 replaces existing Requirement R3 of Reliability Standard IRO–005–3.1a, which currently addresses dissemination of information regarding GMD forecasts.[12]

10. NERC states that Requirement R3 requires transmission operators to develop GMD Operating Procedures or Operating Processes to address GMD events. NERC explains that Requirement R3 is not prescriptive and allows entities to tailor their Operating Procedures or Operating Processes based on the responsible entity's assessment of entity-specific factors, such as geography, geology, and system topology. According to NERC, Requirement R3 requires each transmission operator to specify: (1) Steps or tasks that must be conducted to receive space weather information; (2) what actions must be taken under what conditions, and such conditions must be predetermined; and (3) when and under what conditions the Operating Procedure or Operating Process is exited. NERC maintains that proposed Reliability Standard EOP–010–1 does not prescribe specific actions that must be taken by responsible entities because ''a 'one-size fits all' approach to crafting GMD Reliability Standards would fail to recognize the important role of locational differences.'' [13]

II. Discussion

11. Pursuant to FPA section 215(d)(2), we propose to approve Reliability Standard EOP–010–1 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. Proposed Reliability Standard EOP–010–1 addresses the directive in Order No. 779 that NERC submit one or more Reliability Standards that require owners and operators of the Bulk-Power System to develop and implement operational procedures to mitigate the effects of GMDs consistent with the reliable operation of the Bulk-Power System.[14] As the Commission stated in Order No. 779, ''operational procedures, while not a complete solution, constitute an important first step to addressing the GMD reliability gap because they can be implemented relatively quickly . . . [o]perational procedures may help alleviate abnormal system conditions due to transformer absorption of reactive power during GMD events, helping to stabilize system voltage swings, and may potentially isolate some equipment from being damaged or misoperated.'' [15] The Commission seeks comments from interested entities on our proposal to approve proposed Reliability Standard EOP–010–1.

A. Proposed Reliability Standard EOP–010–1

12. The Commission proposes to approve Reliability Standard EOP–010–1 based on our review of NERC's petition and supporting exhibits. We believe that the proposed Reliability Standard satisfies the directive in Order No. 779 that NERC submit one or more Reliability Standards that require owners and operators of the Bulk-Power System to develop and implement operational procedures to mitigate the effects of GMDs consistent with the reliable operation of the Bulk-Power System. Further, the proposed Reliability Standard is consistent with the guidance in Order No. 779 that NERC develop Reliability Standards that, rather than require specific operational procedures, require responsible entities to develop and implement entity-specific operational procedures because owners and operators of the Bulk-Power System are most familiar with their own equipment and system configurations.[16] The proposed Reliability Standard also requires coordination of operational procedures and processes, overseen by a functional entity with a wide-area perspective (i.e., reliability coordinators), which is also consistent with the guidance in Order No. 779.[17]

13. With respect to the applicability of proposed Reliability Standard EOP–010–1, NERC submitted a white paper explaining the technical justification for basing the applicability of the proposed Reliability Standard, with respect to transmission operators, on the presence of a power transformer with a high side wye-grounded winding with terminal voltage greater than 200 kV in the transmission operator area.[18] NERC also explains, in a separate white paper, its proposal regarding the applicability of the proposed Reliability Standard to reliability coordinators and transmission operators only.[19] The White Paper Supporting Functional Entity Applicability explains that the reliability coordinator has ''responsibility and authority for reliable operation within the Reliability Coordinator Area (RCA) . . . and includes a wide-area view with situational awareness of neighboring RCAs.'' [20] NERC states that including reliability coordinators as applicable entities ''provides the necessary coordination for planning and real-time actions.'' [21] With respect to transmission operators, NERC explains that ''[l]ike the [reliability coordinator], the [transmission operator] has responsibility and authority for the reliable operation of the transmission system within a specified area.'' [22] In addition, NERC justifies omitting balancing authorities and generator operators from the scope of the proposed Reliability Standard. NERC explains that balancing authorities ''can be expected to address GMD impacts through use of generation . . . [but] the [balancing authority] would not initiate actions unilaterally during a GMD event and would instead respond to the direction of the [transmission operator]

a conflict and requiring its resolution by Company A and Company B, NERC states that the review is ''not intended to be a review by the Reliability Coordinator of the technical aspects of the GMD Operating Procedures or Processes.'' *Id.*

[12] According to NERC, Reliability Standard IRO–005–3.1a will be retired once the Commission approves proposed Reliability Standard IRO–005–4, which is currently pending before the Commission. NERC Petition at 13.

[13] NERC Petition at 14.

[14] Proposed Reliability Standard EOP–010–1 only addresses the First Stage GMD Reliability Standards directed in Order No. 779. The proposed Reliability Standard does not address the Second Stage GMD Reliability Standards, which NERC indicates are under development. NERC Petition at 3.

[15] Order No. 779, 143 FERC ¶ 61,147 at P 36.

[16] *Id.* P 38.

[17] *Id.*

[18] NERC Petition, Exhibit D (White Paper Supporting Network Applicability) at 1.

[19] NERC Petition, Exhibit E (White Paper Supporting Functional Entity Applicability).

[20] *Id.* at 2.

[21] *Id.*

[22] *Id.*

and [reliability coordinator].'' [23] As for generator operators, NERC states that some generator operators ''would not have the technical basis for taking steps [to mitigate GMDs] on [their] own and would instead take steps based on the [reliability coordinator] or [transmission operator's] Operating Plans, Processes, or Procedures.'' [24] NERC also notes that generator owners and generator operators will be considered for inclusion in the Second Stage GMD Reliability Standards, ''which will require applicable entities to conduct vulnerability assessment and develop appropriate mitigation strategies . . . [and that] [s]uch mitigation strategies could include the development of Operating Procedures for applicable [generator owners] and [generator operators].'' [25]

14. We believe that the applicability designations in the proposed Reliability Standard are appropriate, based on the justifications set forth in the white papers in Exhibits D and E of NERC's petition.

B. Violation Risk Factors and Violation Severity Levels

15. Each requirement of proposed Reliability Standard EOP–010–1 includes one violation risk factor and has an associated set of at least one violation severity level. The ranges of penalties for violations will be based on the sanctions table and supporting penalty determination process described in the Commission-approved NERC Sanction Guidelines, according to the NERC petition. The Commission proposes to approve the proposed violation risk factors and violation severity levels for the requirements proposed in Reliability Standard EOP–010–1as consistent with the Commission's established guidelines.[26]

C. Implementation Plan and Effective Dates

16. The NERC petition proposes that Reliability Standard EOP–010–1 become effective the ''first day of the first calendar quarter that is six months after the date that this standard is approved by an applicable governmental authority.'' [27] However, NERC states that Requirement R2 of Reliability Standard EOP–010–1, pertaining to reliability coordinator dissemination of space weather information, is meant to replace existing Requirement R3 of Reliability Standard IRO–005–3.1a, which includes similar language. Therefore, to avoid duplicative requirements being enforced at the same time, NERC proposes that, if Reliability Standard EOP–010–1 becomes effective prior to the retirement of Reliability Standard IRO–005–3.1a, then Requirement R2 of Reliability Standard EOP–010–1 will not become effective until the first day following retirement of Reliability Standard IRO–005–3.1a.[28] Requirements R1 and R3 of Reliability Standard EOP–010–1 will still be effective the first day of the first calendar quarter that is six months after the date that the proposed Reliability Standard is approved by an applicable governmental authority.[29] The Commission proposes to accept NERC's implementation plan and effective dates for proposed Reliability Standard EOP–010–1.

III. Information Collection Statement

17. The Office of Management and Budget (OMB) regulations require approval of certain information collection requirements imposed by agency rules. Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Paperwork Reduction Act (PRA) requires each federal agency to seek and obtain OMB approval before undertaking a collection of information directed to ten or more persons, or contained in a rule of general applicability.

18. The Commission is submitting these reporting requirements to OMB for its review and approval under section 3507(d) of the PRA. Comments are solicited on the Commission's need for this information, whether the information will have practical utility, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

19. The Commission based its paperwork burden estimates on the NERC compliance registry as of November 27, 2013. According to the registry, there are 16 reliability coordinators and 183 transmission operators.

20. The Commission estimates an increased burden for each requirement, as dictated in the chart below, for a total estimated burden of $238,800. The Commission based the burden estimates on staff experience, knowledge, and expertise:

[23] *Id.* at 3–4.

[24] *Id.* at 4.

[25] *Id.*

[26] *North American Electric Reliability Corp.,* 135 FERC ¶ 61,166 (2011).

[27] NERC Petition, Exhibit B (Implementation Plan) at 2.

[28] We agree with NERC that Reliability Standard IRO–005–3.1a, Requirement R3, which requires that ''[e]ach Reliability Coordinator shall ensure its Transmission Operators and Balancing Authorities are aware of Geo-Magnetic Disturbance (GMD) forecast information and assist as needed in the development of any required response plans,'' and Requirement R2 of proposed Reliability Standard EOP–010–1, which requires that ''[e]ach Reliability Coordinator shall disseminate forecasted and current space weather information to functional entities identified as recipients in the Reliability Coordinator's GMD Operating Plan,'' are largely duplicative in that both requirements require the dissemination of GMD forecast information, at a minimum, to applicable transmission operators.

[29] *Id.* On April 16, 2013, NERC submitted a petition requesting approval of three revised IRO Reliability Standards and the retirement or revision of six currently-effective Reliability Standards, including IRO–005–3.1a (Docket No. RM13–15–000). On November 21, 2013, the Commission issued a Notice of Proposed Rulemaking that, *inter alia,* proposes to remand the proposed IRO Reliability Standards and related retirements and revisions. *See Monitoring System Conditions—Transmission Operations Reliability Standard, Transmission Operation Reliability Standards, Interconnection Reliability Operations and Coordination Reliability Standards,* Notice of Proposed Rulemaking, 78 FR 73112 (Dec. 5, 2013), 145 FERC ¶ 61,158 (2013).

BURDEN ESTIMATE FOR IMPLEMENTATION OF PROPOSED RELIABILITY STANDARD EOP–010–1

Reliability standard number	Type of respondents	Number of respondents [30] (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)(2)(3)	Total annual cost [31]
EOP–010–1 (R1)	Reliability Coordinator.	16	1	20	320	$19,200 ($60/hr).
EOP–010–1 (R3)	Transmission Operator.	183	1	20	3660	$219,600 ($60/hr).
Total	.....	.....	.....	.....	3980	$238,800.

21. The above chart does not include Reliability Standard EOP–010–1, Requirement R2 because, as NERC states, that requirement replaces IRO–005–3.1a, Requirement R3 and has no change in overall burden. In addition, while our burden estimate with respect to Reliability Standard EOP–010–1, Requirement R3 assumes that all 183 transmission operators are subject to that requirement, we note that not all 183 transmission operators are likely to be subject to Requirement R3 because that requirement only applies to transmission operators with a Transmission Operator Area that includes a power transformer with a high side, wye-grounded winding with terminal voltage greater than 200 kV.

Title: FERC–725S, Mandatory Reliability Standards: Reliability Standard EOP–010–1.

Action: Proposed Collection of Information.

OMB Control No: To be determined.

Respondents: Business or other for profit, and not for profit institutions.

Frequency of Responses: One-time.

Necessity of the Information: The proposed Reliability Standard EOP–010–1, if adopted, would implement the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, the proposal would ensure that responsible entities have Operating Plans and Operating Procedures or Processes in place to mitigate the effects of geomagnetic disturbances on the Bulk-Power System.

Internal review: The Commission has reviewed the proposed changes and has determined that the changes are necessary to ensure the reliability and integrity of the Nation's Bulk-Power System.

22. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov*, Phone: (202) 502–8663, fax: (202) 273–0873]. Comments on the requirements of this rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at *oira_submission@omb.eop.gov*. Comments submitted to OMB should include Docket Number RM14–1–000.

IV. Environmental Analysis

23. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[32] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[33] The actions proposed here fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

24. The Regulatory Flexibility Act of 1980 (RFA) [34] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities.

25. Comparison of the NERC compliance registry with data submitted to the Energy Information Administration on Form EIA–861 indicates that perhaps as many as 34 small entities are registered as transmission operators and no small entities are registered as reliability coordinators. However, the Commission estimates that there will be no material change in burden for the 34 transmission operators that qualify as small entities because they will likely not be affected by proposed Reliability Standard EOP–010–1. Proposed Reliability Standard EOP–010–1 applies to transmission operators with a Transmission Operator Area that includes a power transformer with a high side, wye-grounded winding with terminal voltage greater than 200 kV. Transmission operators with Transmission Operator Areas that include a power transformer with a high side, wye-grounded winding with terminal voltage greater than 200 kV are generally large entities serving substantial geographical areas with significant energy output.

26. Based on the above, the Commission certifies that the proposed Reliability Standard EOP–010–1 will not have a significant impact on a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis is required. The Commission seeks comment on the Commission's proposed certification.

VI. Comment Procedures

27. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due March 24, 2014. Comments must refer to Docket No. RM14–1–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

[30] This number was calculated by adding all the applicable entities while removing double counting caused by entities registered under multiple functions.

[31] The estimated hourly loaded cost (salary plus benefits) for an engineer is assumed to be $60/hour, based on salaries as reported by the Bureau of Labor Statistics (BLS) (*http://bls.gov/oes/current/naics2_22.htm*). Loaded costs are BLS rates divided by 0.703 and rounded to the nearest dollar (*http://www.bls.gov/news.release/ecec.nr0.htm*).

[32] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[33] 18 CFR 380.4(a)(2)(ii).

[34] 5 U.S.C. 601–612.

28. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

29. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

30. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

31. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

32. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

33. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–01143 Filed 1–21–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–1001]

RIN 1625–AA00

Safety Zones, Charleston Sharkfest Swim; Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary moving safety zone on the waters of Charleston Harbor, in Charleston, South Carolina during the Charleston Sharkfest Swim on Sunday, April 27, 2014 from 7:30 a.m. to 8:30 a.m. The Charleston Sharkfest Swim is a 1500 meter swimming race. The safety zone is necessary for the safety of the swimmers, participant vessels, spectators, and the general public during the swim. Persons and vessels will be prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before February 21, 2014. Requests for public meetings must be received by the Coast Guard on or before February 28, 2013.

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

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

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Chief Warrant Officer Christopher Ruleman, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *Christopher.L.Ruleman@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, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number USCG–2013–1001 in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may

change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number USCG–2013–1001 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public Meeting

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

B. Basis and Purpose

The legal basis for the proposed rule is the Coast Guard's authority to establish regulated navigation areas and other 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.

The purpose of the proposed rule is to ensure the safety of the swimmers, participant vessels, spectators, and the general public during the Charleston Sharkfest Swim.

C. Discussion of Proposed Rule

On Sunday, April 27, 2014, the Charleston Sharkfest Swim is scheduled to take place in Charleston Harbor, in Charleston, South Carolina. The Charleston Sharkfest Swim will consist of a 1500 meter swim that starts Charleston Maritime Center, crosses the main shipping channel of Charleston Harbor, and finishes at Patriots Point in Mt. Pleasant.

The proposed rule would establish temporary moving safety zones of 50 yards in front of the lead safety vessel preceding the first race participant, 50 yards behind the safety vessel trailing the last race participants, and at all times extend 100 yards on either side of the race participants and safety vessels. The temporary safety zones would be enforced from 7 a.m. until 9 a.m. on April 27, 2014.

Persons and vessels would be prohibited from entering or transiting through the safety zones unless authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels would be able to request authorization to enter or transit through the safety zones by contacting the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this proposed rule is not significant for the following reasons: (1) The safety zones would only be enforced for a total of two hours; (2) the safety zones would move with the participant vessels so that once the swimmers clear a portion of the waterway, the safety zones would no longer be enforced in that portion of the waterway; (3) although persons and vessels would not be able to enter or transit through the safety zones without authorization from the Captain of the Port Charleston or a designated representative, they would be able to operate in the surrounding area during the enforcement period; (4) persons and vessels would still be able to enter or transit through the safety zones if authorized by the Captain of the Port Charleston or a designated representative; and (5) the Coast Guard would provide advance notification of the safety zones to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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 will not have a significant economic impact on a substantial number of small entities.

This proposed rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Charleston Harbor, in Charleston, South Carolina encompassed within the safety zones from 7 a.m. until 9 a.m. on April 27, 2014. For the reasons discussed in the Regulatory Planning and Review section above, this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves establishing temporary moving safety zones as described in figure 2–1, paragraph (34)(g), of the Commandant 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–1001 to read as follows:

§ 165.T07–1001 Safety Zones; Charleston Sharkfest Swim, Charleston, SC.

(a) *Regulated Areas.* The following regulated area is a moving safety zone: All waters 50 yards in front of the lead safety vessel preceding the first race participants, 50 yards behind the safety vessel trailing the last race participants, and at all times extend 100 yards on either side of the race participants and safety vessels. The Charleston Sharkfest Swim will consist of a 1500 meter swim that starts Charleston Maritime Center, crosses the main shipping channel of Charleston Harbor, and finishes at Patriots Point in Mt. Pleasant.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations.*

(1) All persons and vessels are prohibited from entering or transiting through the regulated areas unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter or transit through the regulated areas may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter or transit through the regulated areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date.* This rule is effective from 7 a.m. until 9 a.m. on April 27, 2014.

Dated: December 18, 2013.

R.R. Rodriguez,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2014–00909 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0963]

RIN 1625–AA00

Safety Zone; Amway China Fireworks, Upper New York Bay, Ellis Island, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the navigable waters of the Upper New York Bay in the vicinity of Ellis Island, New York for a fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays. This rulemaking is intended to restrict all vessels from a portion of The Upper New York Bay before, during, and immediately after the fireworks event.

DATES: Comments and related material must be received by the Coast Guard on or before February 21, 2014.

Requests for public meetings must be received by the Coast Guard on or before January 29, 2014.

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

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

(2) Fax: 202–493–2251.

(3) Mail or Delivery: Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Kristopher Kesting, Sector NY Waterways Management, U.S. Coast Guard; Telephone (718) 354–4154, E-mail *Kristopher.R.Kesting@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

To submit your comment online, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0963) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0013) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES** on or before January 29, 2014. 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

There is no prior Regulatory history for this proposed safety zone.

C. Basis and Purpose

The legal basis for the proposed rule is 33 U.S.C. 1226, 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

Grucci Fireworks is sponsoring a fireworks display for Amway China on the navigable waters of The Upper New York Bay in the vicinity of Ellis Island, NY. The proposed safety zone is necessary to ensure the safety of spectators and vessels from hazards associated with the fireworks display.

The fireworks display will occur from approximately 9:15 p.m. until approximately 9:25 p.m. on April 16, 2014 with a rain date of April 17, 2014. In order to coordinate the safe movement of vessels within the area and to ensure that the area is clear of unauthorized persons and vessels before, during, and immediately after the fireworks launch, this zone will be effective from approximately 8:45 p.m. until approximately 10:00 p.m. on April 16, 2014 or in the event of inclement weather from 8:45 p.m. until approximately 10:00 p.m. on April 17, 2014.

D. Discussion of Proposed Rule

The Coast Guard believes that a safety zone is necessary to ensure the safety of spectators and vessels from hazards associated with the fireworks display. Based on the inherent hazards associated with fireworks, the Captain of the Port (COTP) New York has determined that fireworks launches in close proximity to water crafts pose a significant risk to public safety and property. The combination of increased number of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, and debris especially burning debris falling on passing or spectator vessels has the potential to result in serious injuries or fatalities. The proposed temporary safety zone would restrict vessel movement in the Upper New York bay around the location of the fireworks launch platform before, during, and after the fireworks display.

The proposed safety zone would include all navigable waters of The Upper New York Bay within a box bound by a line drawn from position 40°42′15.05″ N, 074°02′10.57″ W north east to 40°42′25.66″ N, 074°01′44.94″ W south east to 40°41′42.04″ N, 074°01′41.78″ W, south west to 40°41′40.72″ N, 074°02′08.35″ W, then back to the point of origin. The safety zone would be approximately 170-yards northeast of Ellis Island, NY. Vessels will still be able to transit the surrounding area and may be authorized to transit through the proposed safety zone with the permission from the COTP. The COTP does not anticipate any negative impact on vessel traffic due to this proposed safety zone.

The fireworks barge will also have a sign on its port and starboard side labeled ''FIREWORKS—STAY AWAY.'' The sign will consist of 10″ high by 1.5″ wide red lettering on a white background.

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 a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard's enforcement of this proposed safety zone will be of short duration, lasting only 75 minutes. The proposed safety zone will restrict access to only a small portion of the navigable waterways of The Upper New York Bay. Vessels will be able to navigate around the proposed safety zone. Furthermore, vessels may be authorized to transit through the proposed safety zone with the permission of the COTP.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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 will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in a small portion of the Upper New York Bay during the effective period.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: This proposed rule would be in effect for only 75 minutes late at night when vessel traffic is low. Vessel traffic could pass safely around the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the waterway.

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 rulemaking would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of

$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

Marine safety, Navigation (water), Reporting and record keeping requirements, 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 AREA

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

Authority: 33 U.S.C 1226, 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01.0013 to read as follows:

§ 165.T01–0013 Safety Zone; Amway China fireworks, Upper New York Bay, Ellis Island, NY

(a) *Regulated Area.* The following area is a temporary safety zone: all navigable waters of The Upper New York Bay within a box bound by a line drawn from position 40°42′15.05″ N, 074°02′10.57″ W north east to 40°42′25.66″ N, 074°01′44.94″ W south east to 40°41′42.04″ N, 074°01′41.78″ W, south west to 40°41′40.72″ N, 074°02′08.35″ W, then back to the point of origin.

(b) *Effective Period.* This rule will be effective from approximately 8:45 p.m. until approximately 10:00 p.m. on April 16, 2014 or in the event of inclement weather from 8:45 p.m. until approximately 10:00 p.m. on April 17, 2014.

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

(1) Designated Representative. A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port Sector New York (COTP), to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) Official Patrol Vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(d) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23, as well as the following regulations, apply.

(2) No vessels, except for fireworks barge and accompanying vessels, will be allowed to transit the safety zone without the permission of the COTP.

(3) All persons and vessels shall comply with the instructions of the COTP or the designated representative. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(4) Vessel operators desiring to enter or operate within the regulated area shall contact the COTP or the designated representative via VHF channel 16 or 718–354–4353 (Sector New York command center) to obtain permission to do so.

Dated: December 23, 2013.

J.F. Dixon,

Captain, U.S. Coast Guard, Acting Captain of the Port New York.

[FR Doc. 2014–01149 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[Docket Number [EPA–HQ–OAR–2013–0495; FRL 9905–61–OAR]

Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Notice of public hearing.

SUMMARY: The Environmental Protection Agency (EPA) published in the **Federal Register** on January 8, 2014, the proposed rule, ''Standards of

Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units.'' The EPA is announcing a change in the date for the public hearing to be held for the proposed Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units.

DATES: The public hearing will be held on February 6, 2014.

ADDRESSES: The public hearing will be held on February 6, 2014, at the William Jefferson Clinton East Building, Room 1153 (Map Room), 1201 Constitution Avenue NW., Washington, DC 20004. The hearing will convene at 9:00 a.m. (Eastern Standard Time) and end at 8:00 p.m. (Eastern Standard Time).

A lunch break is scheduled from 12:00 p.m. until 1:00 p.m. and a dinner break is scheduled from 5:00 p.m. until 6:00 p.m. The EPA will make every effort to accommodate all speakers. The EPA's Web site for the rulemaking, which includes the proposal and information about the hearing, can be found at: *http://epa.gov/carbonpollutionstandard/.*

FOR FURTHER INFORMATION CONTACT: If you would like to present oral testimony at the public hearing, please contact Ms. Pamela Garrett, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–01), Research Triangle Park, North Carolina 27711; telephone: (919) 541–7966; fax number: (919) 541–5450; email address: *garrett.pamela@epa.gov* (preferred method for registering). The last day to register to present oral testimony in advance will be Tuesday, February 4, 2014. If using email, please provide the following information: the time you wish to speak (morning, afternoon or evening), name, affiliation, address, email address and telephone and fax numbers. Time slot preferences will be given in the order requests are received. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator, please let us know at the time of registration.

Questions concerning the rule that was published in the **Federal Register** on January 8, 2014, should be addressed to Mr. Christian Fellner, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D 243–04), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4003; facsimile number: (919) 541–5450; email address: *fellner.christian@epa.gov.*

Public hearing: The proposal for which the EPA is holding the public hearing was published in the **Federal Register** on January 8, 2014, and is available at: *http://www.epa.gov/carbonpollutionstandard/* and also in the docket identified below. The public hearing will provide interested parties the opportunity to present oral comments regarding the EPA's proposed standards, including data, views or arguments concerning the proposal. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing.

Commenters should notify Ms. Garrett if they will need specific equipment or if there are other special needs related to providing comments at the public hearing. The EPA will provide equipment for commenters to make computerized slide presentations if we receive special requests in advance. Oral testimony will be limited to 5 minutes for each commenter. The EPA encourages commenters to submit to the docket a copy of their oral testimony electronically (via email or CD) or in hard copy form.

The public hearing schedule, including lists of speakers, will be posted on the EPA's Web site at: *http://www.epa.gov/carbonpollutionstandard/.* Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule.

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

The EPA has established a docket for the proposed rule, ''Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units'' under Docket ID No. EPA–HQ–OAR–2013–0495, available at *www.regulations.gov.*

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: January 14, 2014.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2014–01065 Filed 1–21–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 14–1, RM–11710; DA 14–26]

Television Broadcasting Services; South Bend, Indiana

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by LeSEA Broadcasting of South Bend, Inc. (''LeSEA''), the licensee of station WHME–TV, channel 48, South Bend, Indiana, requesting to return to its previously allotted channel 48 at South Bend. On March 2, 2010, the Commission substituted channel 46 for channel 48 at LeSEA's request; however, LeSEA now asserts that it will neither serve the public interest nor make economic or technical sense to expend resources to build WHME–TV's channel 46 facility.

DATES: Comments must be filed on or before February 21, 2014, and reply comments on or before March 10, 2014.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Joseph C. Chautin, III, Esq., Hardy, Carey, Chautin & Balkin, L.L.P., 1080 West Causeway Approach, Mandeville, LA 70471–3036.

FOR FURTHER INFORMATION CONTACT: Adrienne Denysyk, *Adrienne.Denysyk@fcc.gov*, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 14–1, adopted January 9, 2014, and released January 9, 2014. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may

be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via email *www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see §§ 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

Proposed rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Indiana is amended by adding channel 48 and removing channel 46 at South Bend.

[FR Doc. 2014–01175 Filed 1–21–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2013–0121; FWS–HQ–ES–2013–0122; FWS–HQ–ES–2013–0123; FWS–HQ–ES–2013–0124; FWS–HQ–ES–2013–0125: 450 003 0115]

Endangered and Threatened Wildlife and Plants; 90-Day Findings on Five Petitions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition findings and initiation of status reviews.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on five petitions to list 19 species as endangered or threatened, under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that these petitions present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of these species to determine if the petitioned actions are warranted. In order to assure that the best scientific and commercial data informs the status review and, if warranted, the subsequent listing determinations, and to provide an opportunity for all interested parties to provide information for consideration for the status assessment, we are requesting information regarding these species (see Request for Information below). Based on the status reviews, we will issue 12-month findings on the petitions, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct these status reviews, we request that we receive information no later than March 24, 2014. Information submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit information by one of the following methods:

(1) Electronically: Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter the appropriate docket number (see table, below). You may submit information by clicking on ''Comment Now!'' If your information will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: [Insert appropriate docket number; see table, below]; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send information only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Request for Information).

Species	Docket No.
15 foreign bats	FWS–HQ–ES–2013–0121
Emperor penguin.	FWS–HQ–ES–2013–0122
Flores hawk-eagle.	FWS–HQ–ES–2013–0123
Ridgway's hawk	FWS–HQ–ES–2013–0124
Virgin Islands coquí.	FWS–HQ–ES–2013–0125

FOR FURTHER INFORMATION CONTACT: Janine Van Norman, Chief, Branch of Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 420, Arlington, VA 22203; telephone 703–358–2171; facsimile 703–358–1735. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on these species from governmental agencies, Native American tribes, the scientific community, industry, and any other

interested parties. We seek information on:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) The factors that are the basis for making a listing determination for a species under section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (''Factor A'');

(b) Overutilization for commercial, recreational, scientific, or educational purposes (''Factor B'');

(c) Disease or predation (''Factor C'');

(d) The inadequacy of existing regulatory mechanisms (''Factor D''); or

(e) Other natural or manmade factors affecting its continued existence (''Factor E'').

(3) The potential effects of climate change on these species or their habitats.

(4) We also seek the following species-specific information:

(a) For the Armenian whiskered bat *(Myotis hajastanicus*),

- Population surveys;
- Habitat requirements;
- Quality of forested habitat surrounding Lake Sevon, Armenia; and
- Information on current restoration efforts on and around Lake Sevon, Armenia.

(b) For the Flores hawk-eagle *(Spizaetus floris),*

- Information on habitat loss, including the impact of illegal logging and urban expansion on habitat, and the impact of El Niño forest fires from 1997–1998 on monsoon forest habitat in Lesser Sundas Islands (Nusa Tenggara); and
- Information on intentional killing of the species, particularly statistics on international trade in Flores hawk-eagles.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your information concerning these status reviews by one of the methods listed in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Information and supporting documentation that we received and used in preparing this finding will be available for you to review at *http://www.regulations.gov,* or you may make an appointment during normal business hours at the appropriate lead U.S. Fish and Wildlife Service Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition and supporting information submitted with the petition. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to commence a review of the status of the species, which will be subsequently summarized in our 12-month finding.

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR part 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act (see Request for Information).

In considering what factors might constitute threats, we must look beyond the exposure of the species to a factor to evaluate whether the species may respond to the factor in a way that causes actual impacts to the species. If there is exposure to a factor and the species responds negatively, the factor may be a threat and, during the status review, we attempt to determine how significant a threat it is. The threat is significant if it drives, or contributes to, the risk of extinction of the species such that the species may warrant listing as endangered or threatened as those terms are defined in the Act. However, the identification of factors that could impact a species negatively may not be sufficient to compel a finding that the information in the petition and our files is substantial. The information must include evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of endangered or threatened under the Act.

Review of Petition To List 15 Bat Species as Endangered or Threatened Under the Act

Additional information regarding our review of this petition can be found at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2013–0121 in the document labeled Appendices for 15 Foreign Bats.

Species and Range

Common name(s)	Scientific name	Range
Armenian myotis, Armenian whiskered bat	*Myotis hajastanicus*	Armenia.
Aru flying fox	*Pteropus aruensis*	Aru Islands, Indonesia.
Bonin flying fox	*Pteropus pselaphon*	Japan.
Christmas Island pipistrelle	*Pipistrellus murrayi*	Christmas Island, Australia.
Cuban greater funnel-eared bat	*Natalus primus*	Cuba.
Greater monkey-faced bat	*Pteralopex flanneryi*	Papua New Guinea.

Common name(s)	Scientific name	Range
Hill's horseshoe bat	*Rhinolophus hilli*	Rwanda.
Jamaican greater funnel-eared bat	*Natalus jamaicensis*	Jamaica.
Lamotte's roundleaf bat	*Hipposideros lamottei*	Guinea, Liberia, and Côte d'Ivoire.
Lord Howe long-eared bat	*Nyctophilus howensis*	Australia.
Montane monkey-faced bat	*Pteralopex pulchra*	Solomon Island.
Negros naked-backed fruit bat, Philippine bare-backed fruit bat	*Dobsonia chapmani*	Philippines.
New Caledonia long-eared bat	*Nyctophilus nebulosus*	New Caledonia.
New Zealand greater short-tailed bat	*Mystacina robusta*	New Zealand.
Paraguayan mustached bat	*Pteronotus paraguanensis*	Venezuela.

Petition History

On October 25, 2010, we received a petition dated October 25, 2010, from WildEarth Guardians, requesting that 15 species of bats be listed as endangered or threatened under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(a). This finding addresses the petition.

Finding

Based on information provided in the petition, in the sources cited in the petition, and available in our files, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for all 15 species under section 4(a)(1) of the Act:

- Armenian myotis based on factors D and E (see Appendix A);
- Aru flying fox based on factor E (see Appendix B);
- Bonin flying fox based on factor E (see Appendix C);
- Christmas Island pipistrelle based on factors A, C, D, and E (see Appendix D);
- Cuban greater funnel-eared bat based on factors A and E (see Appendix E);
- Greater monkey-faced bat based on factors A and D (see Appendix F);
- Hill's horseshoe bat based on factor A and D (see Appendix G);
- Jamaican greater funnel-eared bat based on factors A, D, and E (see Appendix H);
- Lamotte's roundleaf bat based on factors A, D, and E (see Appendix I);
- Lord Howe long-eared bat based on factor E (see Appendix J);
- Montane monkey-faced bat based on factors A, D, and E (see Appendix K);
- Negros naked-backed fruit bat/Philippine bare-backed fruit bat based on factors A, B, D, and E (see Appendix L);
- New Caledonia long-eared bat based on factors A and E (see Appendix M);
- New Zealand greater short-tailed bat based on factors C and E (see Appendix N); and
- Paraguayan mustached bat based on factors A, D, and E (see Appendix O).

Thus, for each of these species, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (See REQUEST FOR INFORMATION).

Review of Petition To List the Emperor Penguin as Endangered or Threatened Under the Endangered Species Act

Additional information regarding our review of this petition can be found at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2013–0122 in the document labeled Appendix for the Emperor Penguin.

Species and Range

This petition concerns the emperor penguin (*Aptenodytes forsteri*), with a range in Antarctica.

Petition History

On December 5, 2011, we received a petition dated November 28, 2011, from Center for Biological Diversity requesting that the emperor penguin be listed as endangered or threatened under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a). This finding addresses this petition.

Finding

Based on our review of the information provided in the petition, in the sources cited in the petition, and available in our files, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the emperor penguin based on factors A, D, and E.

Thus, for the emperor penguin, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (See REQUEST FOR INFORMATION).

Review of Petition To List the Flores Hawk-Eagle as Endangered or Threatened Under the Endangered Species Act

Additional information regarding our review of this petition can be found at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2013–0123 in the document labeled Appendix for the Flores Hawk-eagle.

Species and Range

This petition concerns the Flores hawk-eagle (*Spizaetus floris*), with a range in Indonesia.

Petition History

On October 6, 2011, we received a petition, dated September 30, 2011, from WildEarth Guardians requesting that the Flores hawk-eagle be listed as endangered or threatened under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a). In a December 20, 2011, letter to the petitioner, we responded that we reviewed the information presented in the petition and did not find that the petition warranted an emergency listing. This finding addresses the petition.

Finding

Based on our review of the information provided in the petition, in the sources cited in the petition, and readily available in our files, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Flores hawk-eagle based on factors A, B, D, and E.

Thus, for the Flores hawk-eagle, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (See REQUEST FOR INFORMATION).

Review of Petition To List Ridgway's Hawk as Endangered or Threatened Under the Endangered Species Act

Additional information regarding our review of this petition can be found at *http://www.regulations.gov* under

Docket No. FWS–HQ–ES–2013–0124 in the document labeled Appendix for Ridgway's Hawk.

Species and Range

This petition concerns the Ridgway's hawk (*Buteo ridgwayi*), with a range in the Dominican Republic.

Petition History

On October 6, 2011, we received a petition dated September 28, 2011, from WildEarth Guardians requesting that Ridgway's hawk be listed as endangered or threatened under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a). In a December 20, 2011, letter to the petitioner, we responded that we were currently required to complete a significant number of listing and critical habitat actions by the end of Fiscal Year 2016 pursuant to court orders, judicially approved settlement agreements, and other statutory deadlines, and we may conduct a review of the petition prior to Fiscal Year 2016 should budget and workload permit. This finding addresses the petition.

Finding

Based on our review of the information provided in the petition, in the sources cited in the petition, and readily available in our files, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Ridgway's hawk based on factors A, D, and E.

Thus, for the Ridgeway's hawk, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (See REQUEST FOR INFORMATION).

Review of Petition To List the Virgin Islands Coquí as Endangered or Threatened Under the Endangered Species Act

Additional information regarding our review of this petition can be found at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2013–0125 in the document labeled Appendix for the Virgin Island Coquí.

Species and Range

This petition concerns the Virgin Islands coquí (*Eleutherodactylus schwartzi*), with a range in the British Virgin Islands.

Petition History

On October 6, 2011, we received a petition dated September 28, 2011, from WildEarth Guardians requesting that the Virgin Islands coquí be listed as endangered or threatened under the Act. The petitioner also requested designation of critical habitat in the U.S. Virgin Islands. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a). In a December 20, 2011, letter to the petitioner, we responded that we were currently required to complete a significant number of listing and critical habitat actions by the end of Fiscal Year 2016 pursuant to court orders, judicially approved settlement agreements, and other statutory deadlines, and we may conduct a review of the petition prior to Fiscal Year 2016 should budget and workload permit. This finding addresses the petition.

Finding

Based on our review of the information provided in the petition, in the sources cited in the petition, and readily available in our files, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Virgin Islands coquí based on factors A, C, and D.

Thus, for the Virgin Island coquí, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (See REQUEST FOR INFORMATION).

Conclusion

On the basis of our evaluation of the information presented under section 4(b)(3)(A) of the Act, we have determined that the petitions summarized above present substantial scientific or commercial information indicating that the requested actions may be warranted and are initiating status reviews to determine whether these actions under the Act are warranted. At the conclusion of the status reviews, we will issue 12-month findings in accordance with section 4(b)(3)(B) of the Act, as to whether or not listing is warranted.

It is important to note that the ''substantial information'' standard for a 90-day finding differs from the Act's ''best scientific and commercial data'' standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough review of the species. Because the Act's standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

References Cited

On *http://www.regulations.gov*, the docket for each species or group of species (see table under **ADDRESSES**) contains the relevant appendix or appendices mentioned above. Each appendix contains a complete list of references cited. Each appendix is also available upon request from the Branch of Foreign Species (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are the staff members of the Branch of Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 8, 2014.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–01184 Filed 1–21–14; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 79, No. 14

Wednesday, January 22, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS–TM–13–0078; TM–13–02]

Farmers' Market Promotion Program: Notice of Request for Extension and Revision of a Currently Approved Information Collection—Farmers Market Promotion Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB) for the currently approved information collection for OMB 0581–0235, an extension and revision of forms ''TM–29, FMPP Project Proposal Narrative Form'' and ''TM–30, FMPP Supplemental Budget Summary Form.'' An electronic version of these mandatory forms will be posted within the Grants.gov forms library for application submission.

DATES: Comments received by March 24, 2014 will be considered.

FOR FURTHER INFORMATION CONTACT: Contact Carmen Humphrey, Chief, Marketing Grants and Technical Assistance Branch, Marketing Services Division, Transportation and Marketing Programs, Agricultural Marketing Service (AMS), USDA; 202/720–0933.

ADDRESSES: Contact Carmen Humphrey, Chief, Marketing Grants and Technical Assistance Branch, Marketing Services Division, Transportation and Marketing Programs, AMS, USDA, 1400 Independence Avenue SW., Room 4509-South Building, Washington, DC 20250; 202/720–0933, or fax 202/690–4152.

Comments should reference docket number AMS–TM–13–0078, TM–13–02 and be sent to Mrs. Carmen Humphrey at the above address or via the Internet at *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Title: Farmers Market Promotion Program.

OMB Number: 0581–0235.

Expiration Date of Approval: March 31, 2014.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Farmers Market Promotion Program (FMPP) was created through an amendment of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3001–3006). The grants authorized by the FMPP were targeted to help improve and expand domestic farmers markets, roadside stands, community-supported agriculture programs, agritourism activities, and other direct producer-to-consumer marketing opportunities. Approximately $1 million each year was allocated for Fiscal Years (FY) 2006–2007, $3 million for FY 2008, $5 million for FY 2009–2010, and $10 million for FY 2011–2012. Funding was not provided for the FMPP in FY 2013.

In FY 2006 thru 2012, the maximum amount awarded for any one proposal could not exceed $100,000. Entities eligible to apply included agricultural cooperatives, producer networks, and producer associations; local governments; nonprofit corporations; public health corporations; economic development corporations; regional farmers market authorities; and Tribal governments.

On October 1, 2010, the AMS published a notice and request for comments in the **Federal Register** (75 FR 60713) to extend and revise the currently approved information collection under the FMPP. The OMB approved the request and revision of the information collection 0581–0235 for 3 years on March 31, 2011. The forms and other requirements under the FMPP are as follows:

1. *Form SF–424,* ''Application for Federal Assistance,'' (approved under OMB collection number 4040–0004) is required by all entities seeking Federal assistance.

2. *Form SF–424A,* ''Budget Information—Non-Construction Programs,'' (approved under OMB collection number 0348–0044) is no longer required to be completed by all applicants. The project narrative contains a detailed project budget within Form ''TM–30, FMPP Supplemental Budget Summary Form.'' The burden hours for the Supplemental Budget Form are captured in the proposal narrative.

3. *Form SF–424B,* ''Assurances—Non-Construction Programs,'' (approved under OMB collection number 0348–0040) must be completed by applicants to assure the Federal government of the applicant's legal authority to apply for Federal assistance.

4. *Proposal Narrative.* Completed applications must include a proposal narrative, which will include the supplemental budget summary. The complete narrative, must not exceed 12 typed single-spaced 8″ x 11″ pages.

New requirements are made to the narrative with this submission to include: the revision to the requested information, subject headings, and the update and addition to the section elements.

The applicant's narrative must include the following elements to explain the project work:

a. *Project Title.* Must capture the primary focus of the project and match the title provided on the SF–424.

b. *Applicant/Organization Information.* The applicant/organization name, contact name, mailing address, telephone and fax number, and the email address(es) for the person(s) designated to answer questions about the application, financial information, and the proposed project budget.

c. *Primary Project Manager Information.* The name, mailing address, telephone and fax number, and email address for the person(s) responsible for managing and/or overseeing the project.

d. *Requested FMPP Funding and Matching Funds (if a match is required).* The dollar amount requested from FMPP. Include other funding sources, matching, and in-kind contributions in the ''Matching Funds,'' section as applicable.

e. *Entity Type and Eligibility Statement.* The entity type, statement of qualification as an eligible entity, and any required documentation of eligibility. Under FMPP, agricultural cooperatives, local governments, nonprofit corporations, public benefit corporations, economic benefit corporations, regional farmers' market

authorities, tribal governments, and certain other entity types were eligible for awards.

f. *EBT, Equipment, Supplies, and Promotional Projects.* Indication of whether or not the proposal includes a new or existing electronic benefit transfers (EBT) component; or includes purchases of equipment, supplies, or other promotional items related to EBT.

g. *Executive Summary.* The proposal summary provides the project description, goals to be accomplished, outcomes expected, and a timeline of activities.

h. *Project Implementation Address.* The location(s) where the project(s) will be implemented, including the street address, city, state, zip code, county, and latitude and longitude coordinates (Internet-obtainable geo-coordinates from mapping software) for all places where the project will be implemented.

i. *Goals of the Project.* A clear statement of the goal(s) and activity(ies) of the project. A brief statement explaining how the project addresses the stated mission of FMPP is required.

j. *Background Statement.* A description of the current conditions that justify the need of the project, and an explanation of why the condition will not be improved absent the project so that the need will remain unmet.

k. *Workplan, Resource, and Timeline Requirements.* A list of each planned activity(ies), a timeline for completion, resources needed, and milestones for assessing progress for each activity(ies).

l. *Expected Outcomes and Beneficiaries.* List of outcomes of the project and the beneficiaries of each outcome. Describe the method of quantifying the outcome and beneficiaries that will be used to measure the success of the project.

m. *Beneficiaries.* This information has been consolidated in the Expected Outcomes and Beneficiaries section and is no longer required.

n. *Evaluation Criteria Statements.* All applications will be evaluated against the ''Proposal Evaluation Criteria,'' published each year the program operates, which can be found in the FMPP Guidelines at *www.ams.usda.gov/FMPP.* The criteria may be revised annually based on the priorities for annual funding. A statement of applicability is required for each criterion. For full consideration, all criteria should be addressed by the proposal.

l. *Existing and Pending Support.* List all current and pending public or private support for this project. An application that duplicates or overlaps substantially with project activities or application already reviewed and funded will not be funded under FMPP.

m. *Supplemental Budget Summary.* Provide a detailed budget using six (6) categories of expenses: Personnel, contractor, travel, equipment, supplies, and other. If a match is required, a separate column with the same six (6) categories will be used to describe the match. A budget narrative is required to explain how items are used to support the project activities, following the FMPP Guidelines.

o. *Primary Proposal Activity.* This section is no longer required.

p. *Proposal Activities.* The information in this section has been consolidated with the Workplan, Resource, and Timeline Requirements section and is no longer required.

5. *FMPP Mandatory Narrative Forms.* Forms ''TM–29, FMPP Project Proposal Narrative Form'' and ''TM–30, FMPP Supplemental Budget Summary Form'' were developed to assist applicants in placing the required information in the proper order in the proposal narrative. These forms are mandatory and must be used for the application development and submittal processes. Both forms TM–29 and TM–30 include instructions to assist applicants in completing the narrative and supplemental budget information.

The ''FMPP Project Proposal Narrative Form'' and ''FMPP Supplemental Budget Summary Form'' for the proposal narrative will not increase the total number of burden hours. These burden hours are captured in the proposal narrative preparation. AMS has initiated development of fillable electronic versions of these forms. An electronic version of these mandatory forms will be posted within the Grants.gov forms library for application submission.

Before funds are dispersed, applicants that are selected for FMPP grant funds (awardees) must complete the following forms:

6. *Form AD–1047,* ''Certification Regarding Disbarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.'' This form must have the awardee's original signature.

7. *Form AD–1048,* ''Certification Regarding Disbarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions.'' This form must have the awardee's original signature.

8. *Form AD–1049,* ''Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I—For Grantees Other Than Individuals.'' The awardee keeps this document for their records.

Additionally, awardees must also complete the following forms and paperwork for AMS:

9. *Grant Agreement—Form AMS–33, United States Department of Agriculture, Agricultural Marketing Service, Agreement Face Sheet.''* The grant agreement is updated to include a mandatory form for awardees to sign indicating compliance with the terms and conditions of the grant award, project work approved, and receipt of grant funding. The sheet includes the grant authority; funding dollar amount; awardee and Federal contact names, address, email addresses, and phone and fax numbers; agreement number; project title, objectives, and statement of work; project work beginning and ending dates; and awardee and AMS Transportation and Marketing Programs, Deputy Administrator's signatures. Two (2) copies of this agreement are required with the awardee's and the AMS Transportation and Marketing Programs, Deputy Administrator's office signatures and dated for each grant.

10. *Form SF–270,* ''Request for Advance and Reimbursement'' (approved under OMB collection number 4040–0012) is required whenever the awardees request an advance or reimbursement of Federal grant funds. AMS expects that at least three (3) SF–270 forms will be submitted during the grant agreement period.

11. *Performance (Progress) Reports.* The Performance Report is written documentation required to notify AMS about the work activities and progress towards completing the awardee's established project workplan goals, objectives, and timelines. AMS requires that at least two (2) Performance Reports will be submitted during the grant agreement period on a schedule provided to the awardee.

12. *Final Performance Report.* The Final Performance Report is a written description of the fulfillment of the project terms required by AMS within 90 days after the ending date of the grant agreement. This information is utilized as final documentation of completion of the workplan goals, objectives, and activities. Details for the construction of this report are provided on the FMPP Web site.

13. *Form SF–425,* Federal Financial Report currently approved under OMB collection number 0348–0061 is required by AMS with each payment request. AMS expects that at minimum two (2) or a maximum of seven (7) Federal Financial Reports will be submitted depending on the duration of the grant agreement period. Additionally, a final ''Federal Financial

Report'' is to be completed once by the awardee(s) 90 days after the expiration date of the grant period.

14. *Grant Recordkeeping.* AMS requires that grant recipients maintain all records pertaining to the grant for a period of 3 years after the final status report has been submitted to AMS, in accordance with Federal recordkeeping regulations. This requirement is provided in 7 CFR 3015.21 and 3015.22 and the FMPP General Terms and Conditions, which are published at AMS' Marketing Services Branch Web site at: *http://www.ams.usda.gov/FMPP.*

AMS submits the following revisions in this information collection:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6.77032 hours per response.

Respondents: Agricultural Cooperatives, Producer Networks, or Producer Associations; Local Governments; Nonprofit Corporations; Public Benefit Corporations; Economic Development Corporations; Regional Farmers' Market Authorities; and Tribal Governments.

Estimated annual number of respondents: 1,500.

Estimated annual number of responses per respondent: 2.07.

Estimated annual number of responses: 3,100.

Estimated total annual burden on the respondents: 20,988 hours.

AMS is committed to compliance with the Government Paperwork Elimination Act that requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible:

- The AD forms can be filled out electronically and scanned as a PDF for submission or printed out and saved for the applicant's records.
- The SF form can be filled out electronically via the FMPP Web site, scanned and submitted as a PDF, and printed or saved for the applicant's records.
- The mandatory TM forms ''FMPP Proposal Narrative Form'' and ''FMPP Supplemental Budget Summary Form'' can be filled out, scanned and submitted as a PDF, and printed or saved for the applicant's records.

Since all applicants are required to submit an FMPP application via Grants.gov, all forms, the proposal narrative and eligibility statement, can also be filled out electronically and submitted as an attachment through Grants.gov during the FMPP application process. Additionally, Grants.gov applicants are not required to submit any additional (hard copy) paperwork to AMS.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether this information will have practical utility; (2) the accuracy of the agency's estimate of the burden of this collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received by AMS will be available for public inspection during regular business hours, 8 a.m. to 4:30 p.m. Eastern Time, Monday through Friday, at the same address; and can be viewed via the Internet at *http://www.regulations.gov.* All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: January 14, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–01078 Filed 1–21–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sisters Ranger District; Oregon; Withdrawal of Notice for Preparation of an Environmental Impact Statement for the Popper Vegetation Management Project

AGENCY: Forest Service, USDA.

ACTION: Notice of withdrawal.

SUMMARY: The Sisters Ranger District, Deschutes National Forest, is withdrawing their intent to prepare an Environmental Impact Statement (EIS) for the Popper Vegetation Management Project. The original Notice of Intent (NOI) was published in the **Federal Register** on January 4, 2011 (Vol. 76, No. 2, p 315–316). The Forest Service has determined that because of changed conditions due to the 2012 Pole Creek fire that a new project is necessary. The new project would be documented in an environmental assessment (EA).

FOR FURTHER INFORMATION CONTACT: Michael Keown, Project Leader, Sisters Ranger District, Highway 20 and Pine Street, Sisters, OR 97759, phone 541–549–7735.

Dated: January 8, 2014.

John Allen,

Forest Supervisor.

[FR Doc. 2014–01020 Filed 1–21–14; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Shoshone National Forest, Wyoming, Land Management Plan Revision

AGENCY: Shoshone National Forest, Forest Service, USDA.

ACTION: Notice of objection filing period.

SUMMARY: The Forest Service, Rocky Mountain Region, Shoshone National Forest, has prepared an Environmental Impact Statement for the Shoshone National Forest Land and Resource Management Plan. The publication date of this notice in the **Federal Register** initiates a 60-day period in which individuals or entities with specific concerns may file an objection for a Forest Service review. The 60-day pre-decisional objection period commences the day following the publication of the legal notice in the Denver Post, Denver, CO. The Responsible Official for the Land Management Revision is Daniel J. Jirón, Regional Forester. The Reviewing Officer is Thomas Tidwell, Chief. The Time Zone of the Reviewing Officer is Eastern Standard Time.

DATES: Comments must be received in writing on or before March 24, 2014 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: John Rupe, Regional Planner—Rocky Mountain Region, at (303) 275–5148.

SUPPLEMENTARY INFORMATION: The environmental analysis document, other supporting documentation, and a draft of the Record of Decision are available for review at local public libraries and at Shoshone National Forest offices in Cody, Dubois, and Lander, and at *http://www.fs.usda.gov/shoshone.* Compact discs or hard copies of these documents may be requested by telephone (307) 527–6241 or email (*Shoshone_forestplan@fs.fed.us*). Additional information regarding this action can be obtained from Carrie Christman, Forest Planner, 808 Meadow Lane Avenue, Cody, Wyoming 82414; (307) 527–6241; *cchristman@fs.fed.us.* An electronic scan of the notice with the publication date will also be posted to

the Web site. The publication date the notice of the beginning of an objection filing period for the plan revision in the newspaper of record before approval (36 CFR 219.16 and 219.52) is the exclusive means for calculating the time frame to file an objection. Objectors must not rely on dates or timeframe information provided by any other source (36 CFR 219.56(b)(3)).

Objection Opportunities

The objection process provides an opportunity for members of the public who have participated in opportunities for public participation provided throughout the planning process to have any unresolved concerns receive an independent review by the Forest Service prior to a final decision being made by the responsible official. Only those who provided substantive formal comments during opportunities for public comment are eligible to file an objection pursuant to regulation 36 CFR 219 subpart B which defines substantive formal comments as:

''Written comments submitted to, or oral comments recorded by, the responsible official or his designee during an opportunity for public participation provided during the planning process, and attributed to the individual or entity providing them. Comments are considered substantive when they are within the scope of the proposal, are specific to the proposal, have a direct relationship to the proposal, and include supporting reasons for the responsible official to consider.''

How To File an Objection

Mailed, emailed, faxed or hand-delivered objections concerning this action will be accepted for 60 calendar days following the publication of this notice in the newspaper of record. The publication date is the exclusive means for calculating the objection filing period. Those wishing to object should not rely upon dates or timeframe information provided by any other source. It is the responsibility of the objector to ensure that the reviewing officer receives the objection in a timely manner. The regulations prohibit extending the length of the objection filing period.

Objections must be submitted to the reviewing officer at Thomas Tidwell, Chief, USDA Forest Service, Attn: EMC—Administrative Reviews, 1400 Independence Ave. SW., Mailstop 1104, Washington, DC 20250–1104. Objections may be mailed electronically to *objections-chief@fs.fed.us* or by facsimile to 703.235.0138. The office business hours for those submitting hand-delivered objections are: 8 a.m.–5 p.m. Monday through Friday, excluding Federal holidays. Electronic objections must be submitted in a commonly used format such as an email message, plain text (.txt), rich text format (.rtf), or Word (.doc). In cases where no identifiable name is attached to an objection, a verification of identity will be requested confirming objection eligibility. If the objection is supported by documents, with the exceptions listed in 36 CFR 219.54(b), all documents must be provided with the objection; a bibliography is not sufficient.

At a minimum an objection must include the following (36 CFR 219.54(c)):

(1) The objector's name and address along with a telephone number or email address if available;

(2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection);

(3) Identification of the lead objector, when multiple names are listed on an objection. The Forest Service will communicate to all parties to an objection through the lead objector. Verification of the identity of the lead objector if requested;

(4) The name of the plan, plan amendment, or plan revision being objected to, and the name and title of the responsible official;

(5) A statement of the issues and/or the parts of the plan, plan amendment, or plan revision to which the objection applies;

(6) A concise statement explaining the objection and suggesting how the proposed plan decision may be improved. If applicable, the objector should identify how the objector believes that the plan, plan amendment or plan revision is inconsistent with law, regulation, or policy; and

(7) A statement that demonstrates the link between prior substantive formal comments attributed to the objector and the content of the objection, unless the objection concerns an issue that arose after the opportunities for formal comment.

All objections are open to public inspection and will be posted to the Forest Service Web site.

Dated: January 14, 2014.

Daniel J. Jirón,

Regional Forester, Rocky Mountain Region.

[FR Doc. 2014–01087 Filed 1–21–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee; Notice of Open Meeting

The Materials Technical Advisory Committee will meet on February 6, 2014, 10 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

AGENDA

Open Session

1. Opening Remarks and Introductions.
2. Remarks from BIS senior management.
3. Presentation from the Office of Technology Evaluation on 1) Changes made to AES to prevent inadvertent reporting of errors on exports related to biological items and 2) an update on the DLA Survey on Strategic Materials.
4. Discussion on recycling carbon fiber, prepeg, cured parts, out of life parts from Composite Working Group.
5. Report of Biological and Pump/Valves Working Group.
6. Report on regime-based activities.
7. Public comments and new business.

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than January 30, 2014.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

For more information, call Yvette Springer at (202) 482–2813.

Dated: January 15, 2014.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2014–01134 Filed 1–21–14; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Technical Advisory Committees; Notice of Recruitment of Private-Sector Members

SUMMARY: Seven Technical Advisory Committees (TACs) advise the Department of Commerce on the technical parameters for export controls applicable to dual-use commodities and technology and on the administration of those controls. The TACs are composed of representatives from industry representatives, academic leaders and U.S. Government representing diverse points of view on the concerns of the exporting community. Industry representatives are selected from firms producing a broad range of goods, technologies, and software presently controlled for national security, non-proliferation, foreign policy, and short supply reasons or that are proposed for such controls, balanced to the extent possible among large and small firms.

TAC members are appointed by the Secretary of Commerce and serve terms of not more than four consecutive years. The membership reflects the Department's commitment to attaining balance and diversity. TAC members must obtain secret-level clearances prior to appointment. These clearances are necessary so that members may be permitted access to the classified information needed to formulate recommendations to the Department of Commerce. Each TAC meets approximately four times per year. Members of the Committees will not be compensated for their services.

The seven TACs are responsible for advising the Department of Commerce on the technical parameters for export controls and the administration of those controls within the following areas: Information Systems TAC: Control List Categories 3 (electronics), 4(computers), and 5 (telecommunications and information security); Materials TAC: Control List Category 1 (materials, chemicals, microorganisms, and toxins); Materials Processing Equipment TAC: Control List Category 2 (materials processing); Regulations and Procedures TAC: The Export Administration Regulations (EAR) and Procedures for implementing the EAR; Sensors and Instrumentation TAC: Control List Category 6 (sensors and lasers); Transportation and Related Equipment TAC: Control List Categories 7 (navigation and avionics), 8 (marine), and 9 (propulsion systems, space vehicles, and related equipment) and the Emerging Technology and Research Advisory Committee: (1) The identification of emerging technologies and research and development activities that may be of interest from a dual-use perspective; (2) the prioritization of new and existing controls to determine which are of greatest consequence to national security; (3) the potential impact of dual-use export control requirements on research activities; and (4) the threat to national security posed by the unauthorized exports of technologies.

To respond to this recruitment notice, please send a copy of your resume to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov*.

Deadline: This Notice of Recruitment will be open for one year from its date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Yvette Springer on (202) 482–2813.

Dated: January 15, 2014.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2014–01122 Filed 1–21–14; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–843]

Certain Lined Paper Products From India: Initiation of Changed Circumstances Review

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

SUMMARY: The Department of Commerce (the Department) has received information sufficient to warrant initiation of a changed circumstances review of the antidumping duty order on certain lined paper products (CLPP) from India. Specifically, based upon a request filed by Navneet Education Limited (Navneet Education), a producer/exporter to the United States of subject merchandise, the Department is initiating a changed circumstances review to determine whether Navneet Education is the successor-in-interest of Navneet Publications (India) Ltd. (Navneet Publications), a mandatory respondent in several prior administrative reviews of the *CLPP Order*.[1]

DATES: Effective January 22, 2014.

FOR FURTHER INFORMATION CONTACT: Cindy Robinson or Eric B. Greynolds, 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) 482–3797 and (202) 482–6071, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 28, 2006, the Department published an antidumping duty order on CLPP from India.[2] On October 17, 2013,[3] Navneet Education informed the Department that effective September 30, 2013, the former company ''Navneet Publications''[4] changed its name to Navneet Education in accordance with the company's existing board of directors' resolution and Indian law. Navneet Education stated that the name change process began in August 2013 and was finalized by the end of September 2013. Navneet Education submitted a copy of ''Fresh Certificate of Incorporation Consequent upon Change of Name'' approved by ''Government of India—Ministry of Corporate Affairs, Registrar of Companies, Maharashtra, Mumbai,'' dated October 17, 2013.[5]

Navneet Education explained that the purpose of its name change is to reflect the broader educational scope of the company's business in recent years, beyond the traditional and narrower paper publication line of business implied by the former name. Specifically, Navneet Education indicated that its company's ''modern development and direction of its business has established the company as a leading supplier of educational publications, a strong brand in the field of educational and children's publications and scholastic stationary

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia,* 71 FR 56949 (September 28, 2006) (*CLPP Order*).

[2] *See CLPP Order.*

[3] *See* Certain Lined Paper Products from India: Request for Changed Circumstances Reviews of Navneet Publications (India) Ltd. (October 17, 2013) (CCR Request) at 8.

[4] CCR Request at 2 indicated that Navneet Publications has participated as a respondent in the original antidumping duty investigation, and it has been a respondent in several antidumping duty administrative reviews, most often as a named mandatory respondent (*e.g.,* in the second through fourth reviews it received the following company-specific margins of 1.34 percent, 0.43 percent, and 2.7 percent, respectively. In the fifth review, Navneet Publications received a non-selected rate of 11.01 percent. In the ongoing sixth review, it is again selected as a mandatory respondent).

[5] *See* CCR Request at Attachment 1.

products, and a major innovator and provider of digital learning services.'' [6]

The company now known as Navneet Education requests that: (1) The Department conduct a changed circumstances review pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216 to determine that it is the successor-in-interest to Navneet Publications for purposes of the antidumping order; and (2) the Department issue instructions to Customs and Border Protection (CBP) that reflect this conclusion.[7] We received no comments from any other interested party.

Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8–3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or ''tear-out'' size), and are measured as they appear in the product (*i.e.,* stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- Unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as ''tablets,'' ''note pads,'' ''legal pads,'' and ''quadrille pads''), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as ''office planners,'' ''time books,'' and ''appointment books'');
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationary (including but not limited to products commonly known as ''fine business paper,'' ''parchment paper'', and ''letterhead''), whether or not containing a lined header or decorative lines;
- Stenographic pads (''steno pads''), Gregg ruled (''Gregg ruling'' consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches.

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar®Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1″ wide elastic fabric band. This band is located 2⅜″ from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to

[6] *Id.,* at 4.

[7] *Id.,* at 1–2.

be bearing an invalidly licensed or used trademark are not excluded from the scope).

• FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this order is typically imported under headings 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Act, the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from, an interested party for a review of an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. In the event that the Department determines that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

In accordance with 19 CFR 351.216(d), the Department has determined that the information submitted by Navneet Education constitutes sufficient evidence to conduct a changed circumstances review. In an antidumping duty changed circumstances review involving a successor-in-interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base.[8] While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor if the resulting operations are essentially the same as those of the predecessor company.[9] Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor.[10]

Based on the information provided in its submission, Navneet Education has provided sufficient evidence to warrant a review to determine if it is the successor-in-interest to Navneet Publication. Therefore, pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d), we are initiating a changed circumstances review. However, the Department finds it is necessary to issue a questionnaire requesting additional information for the review as provided for by 19 CFR 351.221(b)(2). For that reason, the Department is not conducting this review on an expedited basis by publishing preliminary results in conjunction with this notice of initiation. The Department will publish in the **Federal Register** a notice of the preliminary results of the antidumping duty changed circumstances review, in accordance with 19 CFR 351.221(b)(4), and 19 CFR 351.221(c)(3)(i). That notice will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed.

Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of review. In accordance with 19 CFR 351.216(e), the Department will issue the final results of its antidumping duty changed circumstances review not later than 270 days after the date on which the review is initiated, or not later than 45 days if all parties to the proceeding agree to the outcome of the review.

This notice is published in accordance with sections 751(b)(l) and 777(i)(l) of the Act and 19 CFR 351.216(b) and 351.221(b)(1).

Dated: January 14, 2014.

Christian Marsh,

Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–01163 Filed 1–21–14; 8:45 am]

BILLING CODE 3510–DS–P

[8] *See, e.g., Certain Activated Carbon From the People's Republic of China: Notice of Initiation of Changed Circumstances Review,* 74 FR 19934, 19935 (April 30, 2009).

[9] *See, e.g., Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Forged Stainless Steel Flanges from India,* 71 FR 327 (January 4, 2006).

[10] *See, e.g., Fresh and Chilled Atlantic Salmon From Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review,* 64 FR 9979, 9980 (March 1, 1999).

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Visiting Committee on Advanced Technology (VCAT or Committee), National Institute of Standards and Technology (NIST), will meet in open session on Wednesday, February 5, 2014, from 8:30 a.m. to 12:30 p.m. Eastern Time and Thursday, February 6, 2014, from 9:45 a.m. to 1:30 p.m. Eastern Time. The VCAT is composed of fifteen members appointed by the NIST Director who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations.

DATES: The VCAT will meet on Wednesday, February 5, 2014, from 8:30 a.m. to 12:30 p.m. Eastern Time and Thursday, February 6, 2014, from 9:45 a.m. to 1:30 p.m. Eastern Time.

ADDRESSES: The meeting will be held in the Portrait Room, Administration Building, at NIST, 100 Bureau Drive, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Stephanie Shaw, VCAT, NIST, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, Maryland 20899–1060,

telephone number 301–975–2667. Ms. Shaw's email address is *stephanie.shaw@nist.gov.*

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 278 and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

The purpose of this meeting is for the VCAT to review and make recommendations regarding general policy for NIST, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include an update on NIST and presentations and discussions on safety at NIST, NIST's user facilities and other examples of ways in which NIST partners with others, and NIST's responsibilities and activities in disaster resilience. The VCAT Subcommittee on Cybersecurity and the VCAT Subcommittee on Manufacturing will review their recommendations for deliberation by the Committee. The Committee also will present its initial observations, findings, and recommendations for the 2013 VCAT Annual Report. The agenda may change to accommodate Committee business. The final agenda will be posted on the NIST Web site at *http://www.nist.gov/director/vcat/agenda.cfm.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs are invited to request a place on the agenda. On Thursday, February 6, approximately one-half hour will be reserved for public comments and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the NIST Web site at *http://www.nist.gov/director/vcat/agenda.cfm.* Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak, but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to VCAT, NIST, 100 Bureau Drive, MS 1060, Gaithersburg, Maryland, 20899, via fax at 301–216–0529 or electronically by email to *gail.ehrlich@nist.gov.*

All visitors to the NIST site are required to pre-register to be admitted. Please submit your name, time of arrival, email address and phone number to Stephanie Shaw by 5 p.m. Eastern Time, Thursday, January 23, 2014. Non-U.S. citizens must submit additional information; please contact Ms. Shaw. Ms. Shaw's email address is *stephanie.shaw@nist.gov* and her phone number is 301–975–2667.

Dated: January 15, 2014.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2014–01153 Filed 1–21–14; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD091

Fisheries of the Caribbean; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 35 pre-Data Workshop (DW) conference call for Caribbean Red Hind.

SUMMARY: The SEDAR assessment of the Caribbean stocks of Red Hind will consist of several workshops and a series of webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 35 pre-DW conference call will be held on Tuesday, February 11, 2014 from 10 a.m. until 12 p.m. central standard time (CST).

ADDRESSES:

Meeting address: The meeting will be held via conference call. The call is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing conference call access information. Please request conference call invitations at least 24 hours in advance of the call.

SEDAR address: 4055 Faber Place Drive, Suite 201, N., Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie Neer, SEDAR Coordinator; telephone: (843) 571–4366; email: *julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop; (2) a series of assessment webinars; and (3) Review workshop. The product of the Data Workshop is a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Consensus Summary documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include: data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the data webinar are as follows:

Participants will review the data summaries presented during the September 2013 SEDAR 35 Data Webinar and will discuss data needs and treatments.

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 identified 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 intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SEDAR office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: January 15, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–01101 Filed 1–21–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Oceanic and Atmospheric Administration, National Climate Assessment and Development Advisory Committee; Meeting

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: The National Climate Assessment and Development Advisory Committee (NCADAC) was established by the Secretary of Commerce under the authority of the Global Change Research Act of 1990 to synthesize and summarize the science and information pertaining to current and future impacts of climate.

Time and Date: The meeting will be held February 20, 2014 from 9 a.m. to 5 p.m. Eastern Standard Time and February 21, 2014 from 9 a.m. to 1:30 p.m. Eastern Standard Time. These times are subject to change. Please refer to the Web page *http://www.nesdis.noaa.gov/NCADAC/index.html* for changes and for the most up-to-date meeting agenda.

Place: The meeting will be held at the Four Points by Sheraton located at 1201 K Street, NW Washington DC 20005. Please check the Web site *http://www.nesdis.noaa.gov/NCADAC/index.html* for confirmation of the venue and for directions.

Status: Seating will be available on a first come, first serve basis. Members of the public must RSVP in order to attend all or a portion of the meeting by contacting the NCADAC DFO (*Cynthia.Decker@noaa.gov*) by February 14, 2014. The meeting will be open to public participation with a public comment period on February 20, 2014 from 4:30 p.m. to 4:55 p.m. (check Web site to confirm time). The NCADAC expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Individuals or groups planning to make a verbal presentation should contact the NCADAC DFO (*Cynthia.Decker@noaa.gov*) by February 14, 2014 to schedule their presentation. Written comments should be received in the NCADAC DFO's Office by February 14, 2014 to provide sufficient time for NCADAC review. Written comments received by the NCADAC DFO after February 14, 2014 will be distributed to the NCADAC, but may not be reviewed prior to the meeting date.

Special Accommodations: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dr. Cynthia Decker (301–563–6162, *Cynthia.decker@noaa.gov*) by February 14, 2014.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Designated Federal Official, National Climate Assessment and Development Advisory Committee, NOAA OAR, R/SAB, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov;* or visit the NCADAC Web site at *http://www.nesdis.noaa.gov/NCADAC/index.html.*

Dated: January 14, 2014.

Jason Donaldson,

Chief Financial Officer/Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2014–01160 Filed 1–21–14; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD076

International Affairs; U.S. Fishing Opportunities in the Northwest Atlantic Fisheries Organization Regulatory Area

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

ACTION: Notification of U.S. fishing opportunities.

SUMMARY: NMFS announces fishing opportunities in the Northwest Atlantic Fisheries Organization (NAFO) Regulatory Area. This action is necessary to make fishing privileges available on an equitable basis.

DATES: Effective January 1, 2014, through December 31, 2014. Expressions of interest regarding fishing opportunities in NAFO will be accepted through February 6, 2014.

ADDRESSES: Expressions of interest regarding U.S. fishing opportunities in NAFO should be made in writing to Douglas W. Christel in the NMFS Northeast Regional Office, at 55 Great Republic Drive, Gloucester, MA 01930 (phone: 978–281–9141, email: *Douglas.Christel@noaa.gov*).

Information relating to chartering vessels of another NAFO Contracting Party, or transferring NAFO fishing opportunities to or from another NAFO Contracting Party is available from Patrick E. Moran in the NMFS Office of International Affairs at 1315 East-West Highway, Silver Spring, MD 20910 (phone: 301–427–8370, fax: 301–713–2313, email: *Pat.Moran@noaa.gov*). Information relating to NAFO fishing opportunities, NAFO Conservation and Enforcement Measures, and the High Seas Fishing Compliance Act (HSFCA) Permit is available from Douglas Christel, at the NMFS Northeast Regional Office at 55 Great Republic Drive, Gloucester, MA 01930 (phone: 978–281–9141, fax: 978–281–9135, email: *douglas.christel@noaa.gov*) and from NAFO on the World Wide Web at *http://www.nafo.int.*

FOR FURTHER INFORMATION CONTACT: Douglas W. Christel, 978–281–9141.

SUPPLEMENTARY INFORMATION:

What fishing opportunities are available?

The principal species managed by NAFO are cod, flounder, redfish, American plaice, halibut, hake, capelin, shrimp, skates and *Illex* squid. NAFO maintains conservation measures for fishery resources in its Regulatory Area that are managed by total allowable catches (TACs) and allocated among NAFO Contracting Parties. At the 2013 NAFO Annual Meeting, the United States received national quota allocations for three NAFO stocks to be fished during 2014. However, only redfish and squid will be made available to U.S. fishing interests during 2014, as further described below. The species, location, and allocation (in metric tons (mt)) of these 2014 U.S. fishing opportunities, as found in Annexes I.A, I.B, and I.C of the 2014 NAFO Conservation and Enforcement Measures, are as follows:

1. Redfish, NAFO Division 3M, 69 mt.
2. Squid (Illex), NAFO Subareas 3 & 4, 453 mt.
3. Shrimp, NAFO Division 3L, 48 mt.

Additionally, the United States may be transferred up to 1,000 mt of NAFO Division 3LNO yellowtail flounder from

Canada's quota allocation if requested before January 1 of each year, or any succeeding year through 2018, based upon a bilateral arrangement with Canada. The United States has already requested this 1,000 mt of Division 3LNO yellowtail flounder from Canada for 2014. The arrangement with Canada also states that up to 500 mt of additional Division 3LNO yellowtail flounder could be made available on the condition that the United States transfers its Division 3L shrimp allocation (48 mt in 2014) to Canada. However, the United States will not be requesting such an additional transfer during 2014 due to the poor status of the Division 3L shrimp stock. More information on this situation is provided below. The arrangement for the transfer of Canadian yellowtail flounder quota would enable U.S. vessels to harvest American plaice as bycatch in the yellowtail flounder fishery in an amount equal to 15 percent of the total yellowtail flounder quota transferred to the United States. Additional quota for these and other stocks managed within the NAFO Regulatory Area may be available to U.S. vessels through industry-initiated chartering arrangements or transfers of quota from other NAFO Contracting Parties.

As noted above, the United States received a Division 3L shrimp allocation of 48mt for 2014. However, at the 2013 NAFO Annual Meeting, the NAFO Scientific Council recommended closure of the 3L shrimp fishery due to on-going decline in this shrimp stock. Following contentious discussion and a closed-session vote on the issue, NAFO adopted a 50-percent reduction in the 2014 TAC for 3L shrimp. This decision to act in contravention to the best available scientific advice was not supported by the United States (and a number of other NAFO Parties). Thus, the United States will not make its 2014 allocation of Division 3L shrimp available for harvest, charter or trade this year.

U.S. fishermen may also access stocks in which the United States has not received a national quota (also known as the ''Others'' allocation), including: Division 3M cod (58 mt); Division 3LN redfish (42 mt); Division 3O redfish (100 mt); Division 3NO white hake (59 mt); and Division 3LNO skates (258 mt). Note that the United States shares these allocations with other NAFO Contracting Parties, and access to such stocks is on a first-come-first-served basis. Fishing is halted by NAFO when the ''Others'' allocation for a particular stock has been fully harvested.

U.S. fishermen interested in harvesting species not currently regulated by NAFO, but occurring within the NAFO Regulatory Area, should contact the NMFS Northeast Regional Office for information regarding permitting and other requirements.

Who can apply for these fishing opportunities?

Expressions of interest to fish for any or all of the 2014 U.S. fishing opportunities in NAFO described above will be considered from all U.S. fishing interests (e.g., vessel owners, processors, agents, others). Applicants are urged to carefully review and thoroughly address the application requirements and selection criteria as detailed below. Expressions of interest should be directed in writing to Douglas W. Christel (see **ADDRESSES**).

What information is required in an application letter?

Expressions of interest should include a detailed description of anticipated fishing operations in 2014. This includes, but is not limited to, the following elements: intended target species; proposed dates of fishing operations; vessels to be used to harvest fish, including the name, registration, and home port of the intended harvesting vessel, as appropriate; the number of fishing personnel involved in vessel operations; intended landing port; for landing ports outside of the United States, whether or not the product will be shipped to the United States for processing; processing facilities to be employed; target market for harvested fish; and evidence demonstrating the ability of the applicant to successfully prosecute fishing operations in the NAFO Regulatory Area. Note that U.S. applicant vessels must be in possession of, or eligible for, a valid HSFCA permit, which is available from the NMFS Northeast Regional Office. Information regarding other requirements for fishing in the NAFO Regulatory Area is detailed below and is also available from the NMFS Northeast Regional Office (see **ADDRESSES**). U.S. applicants wishing to harvest U.S. allocations using a vessel from another NAFO Contracting Party, or hoping to transfer U.S. allocations to another NAFO Contracting Party, should see below for details on U.S. and NAFO requirements for such activities. If you have further questions regarding what information is required in an expression of interest, please contact Douglas W. Christel (see **ADDRESSES**).

What criteria will be used in identifying successful applicants?

Applicants demonstrating the greatest benefits to the United States through their intended operations will be most successful. Such benefits might include (but are not limited to): the use of U.S vessels; detailed, positive impacts on U.S. employment; use of U.S. processing facilities; transport, marketing and sales of product within the United States; other benefits to U.S. businesses; and documentation of the physical characteristics and economics of the fishery for future use by the U.S. fishing industry. A documented history of successful fishing operations in NAFO or other similar fisheries will also be considered. After reviewing all requests for allocations submitted, NMFS may decide not to grant any allocations if it is determined that no requests adequately meet the criteria described in this notice. To ensure equitable access by U.S. fishing interests, NMFS may provide additional guidance or procedures, or may promulgate regulations designed to allocate fishing interests to one or more U.S. applicants from among qualified applicants.

All applicants will be notified of the allocation decision as soon as possible. Once allocations have been awarded, NMFS will immediately take appropriate steps to notify NAFO and other appropriate actions to facilitate operations by U.S. fishing interests.

What if I want to charter a vessel to fish available U.S. allocations?

Under the bilateral arrangement with Canada, the United States may enter into a chartering (or other) arrangement with a Canadian vessel to harvest the transferred yellowtail flounder. For other NAFO-regulated stocks, the United States may enter into a chartering arrangement with a vessel from any other NAFO Contracting Party. Prior notification to the NAFO Executive Secretary is necessary in either case. Expressions of interest intending to make use of another NAFO Contracting Party vessel under chartering arrangements should provide the following information: the name and registration number of the intended vessel; a copy of the charter agreement; a detailed fishing plan; a written letter of consent from the applicable NAFO Contracting Party; the date from which the vessel is authorized to commence fishing; and the duration of the charter (not to exceed six months). Note that expressions of interest using another NAFO Contracting Party vessel under charter should be accompanied by a detailed description of anticipated

benefits to the United States, as described above.

Any vessel wishing to enter into a chartering arrangement with the United States must be in full current compliance with the requirements outlined in the NAFO Convention and Conservation and Enforcement Measures. These requirements include, but are not limited to, submission of the following reports to the NAFO Executive Secretary: notification that the vessel is authorized by its flag state to fish within the NAFO Regulatory Area during 2014; provisional monthly catch reports for all vessels of that NAFO Contracting Party operating in the NAFO Regulatory Area; daily catch reports for each day fished by the subject vessel within the Regulatory Area; observer reports within 30 days following the completion of a fishing trip; and an annual statement of actions taken by its flag state to comply with the NAFO Convention. The United States may also consider the vessel's previous compliance with NAFO bycatch, reporting and other provisions, as outlined in the NAFO Conservation and Enforcement Measures, before entering into a chartering arrangement. More details on NAFO requirements for chartering operations are available from Patrick E. Moran (see **ADDRESSES**).

What if I want to arrange for a transfer of U.S. quota allocations to another NAFO party?

Under NAFO rules in effect for 2014, the United States may transfer fishing opportunities with the consent of the receiving NAFO Contracting Party and with prior notification to the NAFO Executive Secretary. An applicant may request to arrange for any of the above U.S. opportunities to be transferred to another NAFO party, although such applications will likely to be given lesser priority than those that involve more direct harvesting or processing by U.S. entities. Applications to arrange for a transfer of U.S. fishing opportunities should contain a letter of consent from the receiving NAFO Contracting Party, and should also be accompanied by a detailed description of anticipated benefits to the United States. As in the case of chartering operations, the United States may also consider a NAFO Contracting Party's previous compliance with NAFO bycatch, reporting and other provisions, as outlined in the NAFO Conservation and Enforcement Measures, before entering agreeing to a transfer. More details on NAFO requirements for transferring NAFO allocations are available from Patrick E. Moran (see **ADDRESSES**).

What if I want to arrange to receive a transfer of NAFO quota allocations from another NAFO party?

Under NAFO rules in effect for 2014, the United States may receive transfers of additional fishing opportunities from other NAFO Contracting Parties. The United States is required to provide a letter of consent to this transfer and prior notification to the NAFO Executive Secretary. In the event that an applicant is able to arrange for the transfer of additional fishing opportunities from a fishing company of another NAFO Contracting Party, the United States may agree to facilitate such a transfer insofar as fulfilling the NAFO requirements for such transfers after soliciting additional public input on such transfers as appropriate. As in the case of chartering operations, the United States may also consider a NAFO Contracting Party's previous compliance with NAFO bycatch, reporting and other provisions, as outlined in the NAFO Conservation and Enforcement Measures, before agreeing to accept a transfer. Any fishing quota or other harvesting opportunities received via this type of transfer are subject to all U.S and NAFO rules as detailed below. For more details on NAFO requirements for transferring NAFO allocations, contact Patrick E. Moran (see **ADDRESSES**).

What rules must I follow while fishing?

U.S. applicant vessels must be in possession of, or obtain, a valid HSFCA permit, which is available from the NMFS Northeast Regional Office. Note that vessels issued valid HSFCA permits under 50 CFR part 300 are exempt from the Northeast multispecies and monkfish permit, mesh size, effort-control, and possession limit restrictions, specified in 50 CFR 648.4, 648.80, 648.82, 648.86, 648.87, 648.91, 648.92, and 648.94, respectively, while transiting the U.S. exclusive economic zone (EEZ) with multispecies and/or monkfish on board the vessel, or landing multispecies and/or monkfish in U.S. ports that were caught while fishing in the NAFO Regulatory Area, provided:

1. The vessel operator has a letter of authorization issued by the Regional Administrator on board the vessel;

2. For the duration of the trip, the vessel fishes, except for transiting purposes, exclusively in the NAFO Regulatory Area and does not harvest fish in, or possess fish harvested in, or from, the U.S. EEZ;

3. When transiting the U.S. EEZ, all gear is properly stowed in accordance with one of the applicable methods specified in 50 CFR 648.23(b); and

4. The vessel operator complies with the provisions/conditions specified on the HSFCA permit and all NAFO conservation and enforcement measures while fishing in the NAFO Regulatory Area.

Relevant NAFO Conservation and Enforcement Measures include, but are not limited to, maintenance of a fishing logbook with NAFO-designated entries; adherence to NAFO hail system requirements; presence of an on-board observer; deployment of a functioning, autonomous vessel monitoring system authorized by issuance of the HSFCA permit; and adherence to all relevant minimum size, gear, bycatch, and other requirements. Further details regarding U.S. and NAFO requirements are available from the NMFS Northeast Regional Office, and can also be found in the 2014 NAFO Conservation and Enforcement Measures on the Internet (see **ADDRESSES**).

Dated: January 15, 2014.

Rodney R. McInnis,

Acting Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. 2014–01084 Filed 1–21–14; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

Announcement of Consumer Product Safety Apps Challenge Under the America COMPETES Reauthorization Act of 2011

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: To raise awareness of recalls of consumer products and of consumer product safety reports submitted to the U.S. Consumer Product Safety Commission (Commission or CPSC), the Commission announces a prize contest under section 105 of the America COMPETES Reauthorization Act of 2011, 15 U.S.C. 3719 (Act).

DATES: Entries will be accepted until 11:59 p.m. ET on April 28, 2014. Judging will be complete on or about June 30, 2014. Winners are expected to be announced during an awards ceremony in the July or August 2014 time frame.

FOR FURTHER INFORMATION CONTACT: Stacey Palosky, Public Affairs Specialist, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7648; *spalosky@cpsc.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Consumer Product Safety Commission (CPSC) is charged with protecting the public from unreasonable risks of injury or death from thousands of types of consumer products under the agency's jurisdiction. CPSC has issued more than 13,000 consumer product recalls since the agency's creation in 1973.

Through CPSC's Web site *www.SaferProducts.gov,* consumers, child service providers, health care professionals, government officials, and public safety entities can submit reports of harm involving consumer products. Manufacturers (including importers) and private labelers identified in reports receive a copy of the report and have the opportunity to comment on the report. Completed reports and manufacturer comments are published online at *www.SaferProducts.gov* for anyone to search.

Through the Consumer Product Safety Apps Challenge, the CPSC seeks applications and innovative tools that raise awareness of consumer product safety reports and recalls of consumer products. Because many consumers get consumer product safety information online, CPSC seeks apps and tools that combine recalls and safety reports with online auction sites, online product reviews, search engines and other innovative places where consumers get product information.

CPSC intends to promote the winning applications and tools. Except as set forth in this Notice, CPSC does not plan to retain any intellectual property rights, or assert ownership rights relating to any Consumer Product Safety Apps Challenge submissions, applications or tools.

Contest Requirements and Rules

1. *Subject of the Contest:* A key goal of the CPSC is to empower consumers with safety information about consumer products. CPSC is challenging developers to create applications (apps) and innovative tools that raise awareness of consumer safety reports submitted to CPSC through its Web site, *SaferProducts.gov,* and inform the public of recalls of consumer products.

2. *Amount of the prize:* CPSC will award $1,000 to one winner in each of the following four categories: Best Mashup with Online Auction Sites; Best Mashup with Online Product Reviews; Best Mashup with Search; and Most Innovative. CPSC, in consultation with the judges, reserves the right in its discretion not to make an award in one or more categories based on factors such as quality, quantity or nature of eligible entries.

3. Participation in the contest will be through the Consumer Product Safety Apps Challenge on *productsafetyapps.challengepost.com.* CPSC will administer the challenge according to the rules and requirements posted on *productsafetyapps.challengepost.com.*

4. The rules in this Notice supplement the rules on the *productsafetyapps.challengepost.com* Web site. If there is a conflict between or among any requirement stated on *productsafetyapps.challengepost.com* and the provisions of this Notice, the provisions of this Notice will govern.

5. *Important:* Entries must be made through the *productsafetyapps.challengepost.com* Web site. Registration through *productsafetyapps.challengepost.com* constitutes ''registration to participate in the competition,'' required by Section 105(g)(1) of the Act.

6. Entries must comply with form, content, accessibility, platform, security, privacy, eligibility, and other requirements set forth on the *productsafetyapps.challengepost.com* Web site.

7. *Basis on which a winner will be selected:*

a. Contestants must demonstrate to the satisfaction of the judges: Usefulness, innovativeness, usability, and potential reach and impact.

- ''Usefulness'' is defined as the ability to empower users to engage with, and act on, consumer product safety information on an ongoing basis. The best apps will provide this safety information, tailored to the needs of the user.
- For innovativeness, each entry will be rated for the degree of creativity the entry brings to applications focused on consumer product safety. Innovative approaches to reaching large numbers of consumers will score highest. Bonus points will be given for entries that add a ''fun factor'' to enhance users' knowledge about consumer product safety.
- ''Usability'' is defined as user-friendly and interactive. These capabilities will be awarded the highest marks. Entries should be applicable and attractive to people who are not necessarily ''high tech.'' Additional consideration will be given for usability by people in diverse populations.
- For potential reach and impact, the top tools will prove that they can engage a large number of consumers on a regular basis and will engage consumers in a way that encourages consumers to act upon the consumer product safety information.

b. Apps must be designed for the Web, a personal computer, a mobile device (*e.g.,* mobile phone, portable sensor), tablet, console, or any platform broadly accessible on the open Internet.

c. Applications developed for mobile phones must specify the specific operating system(s) on which the app runs and provide a site where the app can be downloaded.

d. Applications must upload data within 24 hours of its release by CPSC to keep information current.

8. *Eligibility:* To be eligible to participate in the Consumer Product Safety Apps Contest and win a prize:

a. A contestant must create an account on the *productsafetyapps.challengepost.com* Web site by supplying his/her name and email address. Creating an account will constitute ''registration to participate in the competition,'' as provided in the Act.

b. A contestant who is an individual must be at least eighteen (18) years of age, and be a citizen of or permanent resident of the United States. If the contestant is an entity, the entity must be incorporated in, and maintain a primary place of business in the United States.

c. No contestant can be a federal entity or federal employee acting within the scope of the federal entity or federal employee's employment.

d. No application submitted in the Contest may use CPSC's logo or official seal or the logo of SaferProducts.gov in any manner, nor may any contestant, application or submission claim or imply federal government endorsement or approval. Applications must make clear to consumers who access the application that use of the application establishes a relationship between the creator of the application and the consumer and that no user of the application will have any rights, whether contractual or otherwise, against or with respect to, CPSC. CPSC will merely provide a link or access to winning applications and CPSC will have no obligation to promote or advertise any application. The following disclaimer must be displayed on all applications or tools submitted to the Contest: This product is not developed or endorsed by CPSC.

e. Each contestant must agree to assume any and all risks and waive any claims against the U.S. government and its related entities (except in the case of willful misconduct) for any injury, death, damage, or loss of property, revenue or profits, whether direct, indirect, or consequential, arising from their participation in the Consumer Product Safety Apps Challenge, whether

the injury, death, damage or loss arises through negligence, or otherwise. Participants will not be required to waive claims against CPSC that arise from the unauthorized use or disclosure by the agency of the intellectual property, trade secrets, or confidential information of the contestant.

f. Each contestant may join more than one team, corporation, or nonprofit organization, if the contestant is an individual.

g. The Chairman of the CPSC will determine whether contestants will be responsible for obtaining insurance to cover claims by any third party for death, bodily injury, or property damage or loss resulting from an activity carried out in connection with, or participation in, the Consumer Product Safety Apps Challenge. Insurance requirements will be set forth in the rules and requirements provided on *productsafetyapps.challengepost.com.*

h. Each contestant must comply with all requirements of this Notice, the rules and requirements posted on *productsafetyapps.challengepost.com,* and all requirements established by the Act.

9. *Procedures for obtaining additional information:*

a. During the period of the Consumer Product Safety Apps Challenge, CPSC will operate and maintain a moderated discussion board at *productsafetyapps.challengepost.com,* to which potential contestants may submit questions to CPSC.

b. CPSC may choose not to respond to any question or comment or to delete questions or comments that CPSC determines are not relevant to the competition. CPSC's responses to questions on the discussion board are not official guidance.

c. CPSC may also maintain a blog on the *productsafetyapps.challengepost.com* Web site, on which CPSC may post official guidance related to the Consumer Product Safety Apps Challenge. All contestants are bound by official guidance on the blog that is posted before submission of a participant's entry.

10. *Intellectual Property:*

a. CPSC does not accept any responsibility for a registered contestant's lack of compliance with intellectual property or other federal law. Contestants are subject to the Competition's Intellectual Property policies set forth on *productsafetyapps.challengepost.com.*

b. Each winner of the Consumer Product Safety Apps Challenge, in consideration of the prize to be awarded, will be required to grant to CPSC, an irrevocable, paid-up, royalty-free nonexclusive worldwide license to post, link to, and display publicly on the Web the winning application(s), for the purpose of the Challenge, during the duration of the Challenge, and for a period of one (1) year after announcement of the winner(s).

c. All contestants will retain all other intellectual property rights over their submissions.

d. CPSC, in its sole and exclusive discretion, may choose to negotiate with any registered contestant to acquire a license to use any intellectual property developed in connection with the Consumer Product Safety Apps Challenge.

11. *Judges and Judging Procedures:*

a. Subject to the requirements of Public Law No. 111–358, Sec 24 (k), CPSC's Office of Communications, acting on behalf of, and with the authority of the Chairman of the U.S. Consumer Product Safety Commission, will appoint one or more qualified individuals to act as judges of the CPSC Consumer Product Safety Apps Challenge. Judges may include individuals from outside CPSC, including individuals from the private sector and individuals nominated by the Competition. Judges will operate in a transparent manner.

b. A judge may not have a personal or financial interest in, or be an employee, officer, director, or agent of, any entity or individual that is a registered contestant in the Consumer Product Safety Apps Challenge. No judge may have a familial or financial relationship with any individual who is a registered contestant.

c. A judge may not have any matter pending before CPSC or represent anyone in any matter pending before the agency.

d. Specific tasks related to the judging process may be delegated to CPSC employees or employees of a collaborating federal agency.

e. Judges shall have the authority to disregard any minor error in an entry that does not create any substantial benefit or detriment to any contestant.

f. Decisions of the judges are final.

12. *Payment of Prizes, Use of Prize Money, and Post-Award Performance:*

a. Prize money will be paid after the announcement of the winners, in a time frame consistent with the award ceremony, which will be held approximately in July or August 2014.

b. CPSC may pay prize money directly. In such a case, the winner will provide CPSC with sufficient information to support payment transactions in accordance with CPSC fiscal policy and the issuance of Internal Revenue Service Form 1099.

Authority: 15 U.S.C. 3719.

Dated: January 15, 2014.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2014–01085 Filed 1–21–14; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2013–0049]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by February 21, 2014.

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) part 237, Service Contracting, and associated clauses at DFARS 252–237–7000, Notice of Special Standards of Responsibility; 252.237–7011, Preparation History, and DD Form 2063, Record of Preparation and Disposition of Remains (Within CONUS); 252.237–7023, Continuation of Essential Contractor Services; and 252.237–7024, Notice of Continuation of Essential Contractor Services; OMB Control Number 0704–0231, which incorporates the annual reporting burden previously approved under OMB Control Number 0704–0465.

Type of Request: Extension.

Number of Respondents: 7,810.

Responses per Respondent: 1.22.

Annual Responses: 9,560.

Average Burden per Response: Approximately 1.87 hours.

Annual Burden Hours: 17,905.

Needs and Uses: This information collection is used by contracting officers for the following purposes:

(1) Audit Services. The clause at 252–237–7000 is used to provide information that enables verification that the apparently successful offeror for audit services is licensed by the cognizant licensing authority in the state or other political jurisdiction where the offeror operates its professional practice.

(2) Mortuary Services. The clause at DFARS 252.237–7011 and DD Form

2063 are used (a) to ensure the mortuary contractor has properly prepared the body, and (b) by the contract carrier, so that the body can be shipped by that carrier. When additional preparation of the body is required subsequent to shipment, information regarding the initial preparation of the body may be used by the mortuary services contractor to whom the body has been shipped.

(3) Continuation of Essential Services. The provision at DFARS 252.237–7024 requires offerors to submit with its offer a written plan describing how it will continue to perform essential contractor services during periods of crisis. The associated clause at 252.237–7023 requires the contractor to maintain and update its plan as necessary.

Affected Public: Businesses or other for-profit entities and not-for-profit institutions.

Frequency: On occasion.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–01132 Filed 1–21–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2013–0050]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by February 21, 2014.

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 232, Contract Financing, and related clause at DFARS 252.232–7007, Limitation of Government's Obligation; OMB Control Number 0704–0359.

Type of Request: Extension.

Number of Respondents: 800.

Responses per Respondent: 1.

Annual Responses: 800.

Average Burden per Response: Approximately 1 hour.

Annual Burden Hours: 800.

Needs and Uses: This information collection requires contractors that are awarded incrementally funded, fixed-price DoD contracts to notify the Government when the work under the contract will, within 90 days, reach the point at which the amount payable by the Government (including any termination costs) approximates 85 percent of the funds currently allotted to the contract. This information will be used to determine what course of action the Government will take (e.g., allot additional funds for continued performance, terminate the contract, or terminate certain contract line items).

Affected Public: Businesses or other for-profit entities and not-for-profit institutions.

Frequency: On occasion.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Ms. Patricia Toppings. Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–01131 Filed 1–21–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket No. DARS–2013–0044]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by February 21, 2014.

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS, part 211, Describing Agency Needs, and the associated clauses at DFARS 252.211–

7004, Alternate Preservation, Packaging, and Packing and 252.211–7005, Substitutions for Military or Federal Specifications and Standards; OMB Control Number 0704–0398.

Type of Request: Extension.

Number of Respondents: 385.

Responses Per Respondent: 1.4.

Annual Responses: 573.

Average Burden Per Response: Approximately 2 hours.

Annual Burden Hours: 1,136.

Needs and Uses: This information collection permits offers to—

• Propose alternatives to military preservation, packaging, or packing specifications. DoD uses the information to evaluate and award contracts using commercial or industrial preservation, packaging, or packing if the offeror chooses to propose such alternates.

• Propose Single Process Initiative (SPI) processes as alternatives to military or Federal specifications and standards cited in DoD solicitations for previously developed items. DoD uses the information to verify Government acceptance of an SPI process as a valid replacement for a military or Federal specification or standard.

Affected Public: Businesses or other for-profit and not-for profit institutions.

Frequency: On Occasion.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–01128 Filed 1–21–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Record of Decision and Floodplain Statement of Findings for the FutureGen 2.0 Project

AGENCY: Department of Energy.

ACTION: Record of Decision.

SUMMARY: The United States (U.S.) Department of Energy (DOE) announces its decision to provide financial assistance to the FutureGen Industrial Alliance (the Alliance) for its FutureGen 2.0 Project. DOE prepared an environmental impact statement (EIS) (DOE/EIS–0460) to evaluate the potential environmental impacts associated with DOE's proposed action of providing approximately $1 billion of financial assistance for the project (the majority of which was appropriated under the American Recovery and Reinvestment Act (ARRA)) through cooperative agreements with the Alliance. The EIS evaluated the potential impacts associated with construction and operation of the proposed FutureGen 2.0 Project, which is a public-private partnership formed for the purpose of developing the world's first commercial-scale, oxy-combustion electric generation project integrated with carbon capture and geologic storage. The Alliance, cooperating with Ameren Energy Resources (Ameren), would upgrade one unit in a power plant currently owned by Ameren near Meredosia, Illinois. The repowered unit would include oxy-combustion and carbon capture technologies designed to capture at least 90 percent of its carbon dioxide (CO_2) emissions during steady-state operation and reduce other emissions to near zero. The captured CO_2 would be transported through an approximately 30-mile pipeline to wells where it would be injected approximately 4,000 feet below ground into a geologic saline formation for permanent storage. The project would be designed to capture, transport, and inject approximately 1.2 million tons (1.1 million metric tons) of CO_2 annually, and up to a total of 24 million tons (22 million metric tons) over approximately 20 years. The Alliance would also construct and operate visitor, research, and training facilities related to carbon capture and storage in the vicinity of Jacksonville, Illinois. The DOE-funded demonstration period would last for 56 months from the start of operations (approximately 2017) through 2022.

ADDRESSES: The EIS and this record of decision (ROD) are available on DOE's National Environmental Policy Act (NEPA) Web site at *http://energy.gov/nepa/nepa-documents* and on the DOE National Energy Technology Laboratory (NETL) Web site at *http://www.netl.doe.gov/publications/others/nepa/index.html*. Copies of these documents may be obtained from Mr. Cliff Whyte, M/S: I07, National Energy Technology Laboratory, 3610 Collins Ferry Road, P.O. Box 880, Morgantown, WV 26507–0880, ATTN: FutureGen 2.0 Project; electronic mail: *cliff.whyte@netl.doe.gov;* telephone: 304–285–2098; or by toll-free telephone at 1–800–432–8330, extension 2098.

FOR FURTHER INFORMATION CONTACT: To obtain additional information about the project, the EIS, or the ROD, contact Mr. Cliff Whyte as indicated above under **ADDRESSES**. For general information about the DOE NEPA process, contact Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; telephone: 202–586–4600; fax: 202–586–7031; or leave a toll-free message at: 1–800–472–2756.

SUPPLEMENTARY INFORMATION: DOE prepared this ROD and Floodplain Statement of Findings pursuant to the National Environmental Policy Act of 1969 (42 United States Code [U.S.C.] 4321, *et seq.*), and in compliance with the Council on Environmental Quality (CEQ) implementing regulations for NEPA (40 Code of Federal Regulations [CFR] parts 1500 through 1508), DOE's implementing procedures for NEPA (10 CFR Part 1021), and DOE's Compliance with Floodplain and Wetland Environmental Review (10 CFR part 1022). The decisions announced in this ROD are based on DOE's final EIS for the FutureGen 2.0 Project (DOE/EIS–0460, October 2013) and other program considerations.

Purpose and Need for Agency Action

DOE considers the advancement of carbon capture and storage technology critically important to addressing CO_2 emissions and global climate change concerns associated with the use of fossil fuels. The purpose of DOE's proposed action is to demonstrate the

commercial feasibility of an advanced coal-based technology (oxy-combustion) that may serve as a cost-effective approach to implementing carbon capture at new and existing power plants. The proposed project would also demonstrate commercial-scale integration of transport and permanent storage of captured CO_2 in a deep geologic formation. Implementation of the FutureGen 2.0 Project supports the objectives of the FutureGen Initiative to establish the feasibility and viability of producing low-carbon electricity from coal with near-zero emissions of air pollutants.

One of DOE's primary strategic goals is to protect our national and economic security by promoting a diverse supply of reliable, affordable, and environmentally sound energy. The development of carbon capture and storage technologies through the FutureGen 2.0 Project would support the ongoing and future use of the nation's abundant coal reserves in a manner that addresses both aging power plants and environmental challenges. Federal financial support reduces the risks inherent in these first-of-a-kind projects, which without financial assistance would be unlikely to occur.

DOE's Proposed Action

DOE's proposed action is to provide approximately $1 billion in cost-shared ARRA and other funding through cooperative agreements with the Alliance for its proposed FutureGen 2.0 Project. The estimated total project cost is $1.68 billion.

Project Description and Location

The FutureGen 2.0 Project would result in the construction and operation of a CO_2 capture facility using oxy-combustion technology to capture at least 90 percent (approximately 1.2 million tons [1.1 million metric tons] annually) of CO_2 during steady-state operation of a repowered electricity generating unit at the Meredosia Energy Center. This existing generating unit is located on a 263-acre site adjacent to the east side of the Illinois River, south of the village of Meredosia in Morgan County, Illinois. The captured CO_2 would be conditioned, compressed, and transported approximately 30 miles via a new pipeline to a new well that would inject into the Mt. Simon Formation (approximately 4,000 feet below ground surface), which is one of the Illinois Basin's major deep saline formations. The primary components of the project are:

(1) *Oxy-Combustion Large Scale Test*—The Alliance would acquire portions of the Meredosia Energy Center from Ameren and repower an existing unit with oxy-combustion technology. Principal construction features would include a new air separation unit to generate oxygen, modifications to the power block (including a new boiler and gas quality control system), a new compression and purification unit for the flue gas, and additional modifications (reconstruction of the main cooling tower, two new cooling towers, process water system upgrades, new process water and wastewater treatment systems, and a new 450-foot (maximum) concrete exhaust stack). The new oxy-combustion facility would operate on a blended coal mixture of 60 percent Illinois No. 6 bituminous and 40 percent Powder River Basin sub-bituminous. The repowered unit would generate 168 MWe of power (gross) and CO_2 suitable for transport by pipeline.

(2) *CO_2 Pipeline*—The Alliance would construct a new pipeline approximately 30 miles long to transport captured CO_2 to a new injection well site northeast of Jacksonville, Illinois. The pipeline would be constructed of either a 12-inch or 10-inch diameter pipe. The proposed pipeline route crosses mostly rural and sparsely developed agricultural lands in Morgan County. The Alliance plans to use existing rights-of-way (ROWs) to the extent practicable to minimize environmental impacts and avoid sensitive resources. The CO_2 pipeline would have an operational ROW with a width of 50 feet and a construction ROW of 80 feet (100 feet in limited circumstances).

(3) *CO_2 Storage*—The proposed project would convey approximately 1.2 million tons (1.1 million metric tons) of CO_2 annually to a new injection site on 9.5 acres northwest of the intersection of Beilschmidt Road and Martin Road in eastern Morgan County. The CO_2 would be injected via four horizontally drilled injection wells into the Mt. Simon Formation approximately 4,000 feet below the surface, and would be confined in the geologic saline formation by an overlying impermeable caprock layer (the Eau Claire Formation) approximately 480 feet thick. The maximum extent of the subsurface CO_2 plume after 20 years of injection would be approximately 4,000 acres based on modeling results; the Alliance has acquired the subsurface rights of 6,800 acres for the modeled plume. The Class VI Underground Injection Control (UIC) permits to be issued by the U.S. Environmental Protection Agency (USEPA) for the four horizontal injection wells require the implementation of a monitoring, verification, and accounting (MVA) program to assess the injection and geologic storage of CO_2 and to verify that it stays within the target formation. The MVA program, including monitoring wells and other technologies, would proceed throughout the planned injection period (20 years) and continue for another 50 years or until such time as the USEPA is satisfied that the plume is stable and no further monitoring is required.

(4) *Educational Facilities* – The Alliance would construct and operate visitor, research, and training facilities (the educational facilities) to support public outreach and communication, and to provide training and research opportunities associated with near-zero emissions power generation and CO_2 capture and storage technologies. The intended general location for the educational facilities is the vicinity of Jacksonville, which is the largest community in Morgan County. The Alliance has been working with local stakeholders to identify a location that would be advantageous to the FutureGen 2.0 Project and to the local community. Siting of the facilities would require a maximum of 3.5 acres at a location that has access to existing utility infrastructure and roadways.

Alternatives

Alternatives considered by DOE during the original 2003 FutureGen program originated as private-party (e.g., electric power industry) applications submitted to the Department. The FutureGen 2.0 Project is a continuation of the original FutureGen program. In addition to fully analyzing the potential impacts of the FutureGen 2.0 Project and the no action alternative, DOE considered alternatives for the proposed action in the EIS, including alternative fuel sources, alternative advanced electric generating technologies, alternative retrofitting technologies, alternative sites for the oxy-combustion large scale test, and alternative CO_2 pipeline and storage locations. These alternatives were dismissed from further analysis primarily because they either were already addressed by other programs and projects within DOE's diverse portfolio of energy research, development, and demonstration efforts; because they did not meet the Alliance's environmental, geologic, or siting criteria; or because they would not meet the cost and technology-advancement objectives of the FutureGen Initiative as effectively as the proposed project.

No Action Alternative

Under the no action alternative, DOE would not continue to fund the FutureGen 2.0 Project into the final design, construction, and operational

phases. Without DOE funding, it is unlikely that the Alliance (or the U.S. industry in general) would undertake, in the near-term, the commercial-scale integration of CO_2 capture and geologic storage with a coal-fueled power plant. Therefore, the no action alternative represents a ''no-build'' alternative. Without DOE's investment in this facility, the development of oxy-combustion plants integrated with CO_2 capture and geologic storage would be delayed or not occur at all. While the no action alternative would not satisfy the purpose and need for DOE's proposed action, this alternative was analyzed to allow for comparisons to the effects of the proposed project, as required under CEQ Regulations (40 CFR 1502.14). The no action alternative reflects the current baseline condition and serves as a benchmark against which the effects of the proposed action can be evaluated. If the Alliance decided to pursue the project without DOE funding, potential impacts would be similar to those evaluated under DOE's proposed action.

EIS Process

DOE initiated the NEPA process by publishing a notice of intent (NOI) to prepare an EIS in the **Federal Register** (FR) on May 23, 2011. DOE stated in that notice that the EIS would analyze the potential environmental impacts at each of three CO_2 storage sites proposed by the Alliance. These sites were located near Jacksonville, Illinois; Taylorville, Illinois; and Tuscola, Illinois. DOE conducted a scoping process that included three public scoping meetings and consultations with interested governmental agencies and other stakeholders. DOE held public scoping meetings in Taylorville, Tuscola, and Jacksonville during the 30-day public scoping period, which ended on June 22, 2011.

Following the public scoping period and after consideration of the comments received, DOE prepared a draft EIS that analyzed the potential environmental impacts of the construction and operation of the FutureGen 2.0 Project and the no action alternative. During the preparation of the document, the Alliance determined that CO_2 injection and storage at the Jacksonville site, located in Morgan County, was the only suitable option as the quality of the geologic storage site was acceptable and the prohibitive costs involved in transporting the CO_2 for substantial additional distances to Taylorville and Tuscola made the other sites unreasonable. As a result, the Taylorville and Tuscola sites were removed from further consideration, and the draft EIS analyzed the potential environmental impacts of CO_2 injection and storage at the site near Jacksonville only. DOE and the USEPA both published notices of availability (NOAs) for the draft EIS on May 3, 2013. DOE's NOA (78 FR 26004) also announced its plans for a public hearing, which was held on May 21, 2013, in Jacksonville.

DOE listened to questions and concerns during an informal session before the hearing and received oral comments on the draft EIS at the public hearing. During the 45-day public comment period, which ended June 17, 2013, DOE received comment letters from the USEPA, U.S. Department of the Interior, and Illinois Department of Agriculture. Comments also were received from one local elected official, four non-governmental or public-private organizations, and seven members of the public.

Comments included concerns regarding: (1) The adequacy of technical and financial information about the project; (2) potential socioeconomic impacts and risks; (3) the suitability of the proposed geologic formation for storage of CO_2; (4) the effectiveness of the project to mitigate potential climate change; (5) potential health and safety risks associated with leakage from the CO_2 storage formation or the pipeline; (6) the protection of threatened and endangered species, forest habitat, bald eagles, and migratory birds; (7) the adequacy of the NEPA analysis, definition of purpose and need, and alternatives; (8) connected actions and cumulative impacts related to coal use; (9) potential environmental justice impacts on low-income populations; and (10) potential impacts on surface waters, wetlands, groundwater, prime farmland, and public water utilities. USEPA rated the draft EIS as LO—''Lack of Objections.''

DOE distributed the final EIS in October 2013. The USEPA published a NOA in the **Federal Register** on November 1, 2013 (78 FR 65643). In the final EIS, DOE updated project information, refined analyses, and responded to all comments on the draft EIS.

Comments Received on the Final EIS

DOE received comments on the final EIS from the USEPA and a concerned citizen, Ms. Betty Niemann. DOE considered these comments during preparation of this ROD.

USEPA, in a letter dated November 27, 2013, indicated that the final EIS adequately clarified issues USEPA had posed on the draft EIS except that USEPA had a remaining comment on fine particulate matter. USEPA recommended that the ROD require either a more detailed and refined analysis that demonstrates that FutureGen 2.0 is not a significant contributor to ambient air quality violations or impose controls/limitations to assure there would be no violations. In response, the Alliance updated the air quality modeling analysis as recommended and the results are discussed in this ROD under Air Quality. The analysis demonstrates that the FutureGen 2.0 Project would not significantly contribute to a modeled exceedance of the 24-hour National Ambient Air Quality Standard for fine particulate matter. In a letter dated December 16, 2013, USEPA stated that concerns raised in the November 27, 2013 comment letter have been resolved, and that USEPA has no additional recommendations.

Ms. Niemann, in a letter and subsequent electronic mail, expressed concern about a range of topics, including among other things: The cooperative agreement between DOE and the Alliance; potential impacts on land use and aesthetics associated with the visitor center in Jacksonville; apparent discrepancies in the acreage required for CO_2 storage, potential for leaks from the CO_2 storage area, such as from characterization/stratigraphic wells; adequacy of analysis of baseline impacts to landowners under the no action alternative; whether the anticipated environmental benefits of CO_2 reduction are significant enough to justify the project in view of costs and impacts to landowners; adequacy of site-specific information in the EIS; liability issues; and whether the Alliance has the expertise to carry out the FutureGen 2.0 Project. DOE has reviewed the final EIS in light of these comments and determined the analyses in the final EIS are adequate. Many of the issues in these comments were also posed in comments from Ms. Niemann on the draft EIS; responses to those comments are in Appendix I of the final EIS.

Decision

DOE has decided to proceed with cost-shared funding for the FutureGen 2.0 Project, providing the Alliance with approximately $1 billion through cooperative agreements. The project, potential environmental impacts, and required mitigation measures are described below.

Basis of Decision

DOE based its decision on the importance of achieving the objectives of the FutureGen Initiative and a careful review of the potential environmental impacts presented in the EIS. Clean coal

is an essential component of the President's ''All of the Above'' energy strategy and the proposed project would help DOE meet its congressionally-mandated mission to support advanced clean-coal technology projects. Congress appropriated significant funds to enable DOE to pursue large-scale demonstrations of clean coal technologies, and the FutureGen 2.0 Project is expected to yield significant scientific, commercial, and energy-production benefits. Studies by DOE have identified oxy-combustion as a potentially cost-effective approach to implementing carbon capture at existing coal facilities, including a large cross-section of the world's existing pulverized coal power plants. Oxy-combustion also has the potential for use in new power plants. Oxy-combustion technology is inherently scalable, making it possible to demonstrate the technology at a relatively small commercial scale, such as the 168 megawatt electricity (MWe), FutureGen 2.0 Project, and then replicate it at larger-scale (e.g., 500+ MWe) power plants. The ability to demonstrate the technology at a smaller but commercially relevant scale offers substantial cost-saving benefits. An important benefit of FutureGen 2.0 will be the data collected during the demonstration period. These data may be used by DOE and others to evaluate whether the project's technologies could be effectively and economically implemented at a commercial scale.

DOE plans to verify the environmental impacts predicted in the EIS and the implementation of appropriate avoidance and mitigation measures.

Mitigation

DOE's decision incorporates measures to avoid or minimize adverse environmental impacts during the design, construction, and operation of the project. DOE requires that recipients of financial assistance comply with all applicable federal, state, and local environmental laws, orders, and regulations. During project planning, the Alliance incorporated various mitigation measures and permit requirements into its project, and the analyses completed for the EIS assumed that such measures would be implemented. These measures are identified in the EIS and incorporated into this ROD as conditions for DOE's financial assistance under the cooperative agreements between DOE and the Alliance. All practicable means to avoid or minimize environmental harm from the project have been adopted.

Mitigation measures beyond those specified in permit conditions will be addressed in a Mitigation Action Plan (MAP). DOE will prepare the MAP, consistent with 10 CFR part 1021.331, to establish how the mitigation measures will be planned, implemented, and monitored. The MAP will be an adaptive management tool; therefore, mitigation conditions in it would be removed if equivalent conditions are otherwise established by permit, license, or law. Permit, license, or regulatory requirements are not mitigation actions subject to DOE control and, therefore, would not be included in the MAP. Through management of its cooperative agreements with the Alliance, DOE will ensure that the Alliance fulfills the monitoring and mitigation requirements specified in this ROD and in the MAP, which is under development. DOE will make the MAP available for inspection in appropriate locations for a reasonable time. Copies of the MAP and any annual reports required by the MAP will also be available upon written request.

Potential Environmental Impacts

In making its decision, DOE considered the environmental impacts of the FutureGen 2.0 Project (DOE's proposed action) and the no action alternative. The potentially affected environmental resources evaluated included: Air quality; climate and greenhouse gases; physiography and soils; geology; groundwater; surface water; wetlands and floodplains; biological resources; cultural resources; land use; aesthetics; materials and waste management; traffic and transportation; noise; utilities; community services; human health and safety; socioeconomics; and environmental justice. For analytical purposes, DOE evaluated potential impacts using current baseline conditions where the energy center is no longer in operation, as well as using historical baseline conditions prior to the 2011 suspension of operations at the energy center. DOE also considered the impacts from construction and operation of the FutureGen 2.0 Project in combination with those from other past, present, and reasonably foreseeable future actions (i.e., cumulative impacts).

Best management practices (BMPs) would be implemented and all necessary permits would be obtained to minimize potential impacts and to comply with regulatory requirements during construction and operation. The following sections discuss the key potential impacts of the project.

Air Quality

Construction of the FutureGen 2.0 Project would result in short-term, minor, localized increased tailpipe and fugitive dust emissions. Emissions would be concentrated at the construction sites and would steadily decrease with distance. Construction-related emissions would be reduced with the implementation of industry standard BMPs, including control of vehicle speeds, minimizing or stabilizing exposed areas to reduce wind erosion, wetting exposed areas and roads with water or appropriate surfactants, reducing or eliminating equipment idling time, and using properly maintained equipment. The proposed project would occur in an area listed as either in ''attainment'' or ''unclassified'' for all criteria pollutants. Clean Air Act conformity requirements are not applicable and thus there are no emissions thresholds that pertain to the construction phase of this project.

Air dispersion modeling, using USEPA's model AERMOD, was performed to assess the potential air quality impacts of the proposed FutureGen 2.0 Project during operations and to demonstrate compliance with the National Ambient Air Quality Standards. The modeling results indicated that emissions of criteria pollutants or hazardous air pollutants during operations would not exceed relevant air quality or health standards when analyzed as an isolated project or when analyzed cumulatively with applicable regional sources. In response to a recommendation from the USEPA based on its review of the final EIS, the Alliance updated the air quality modeling analysis regarding the potential impacts of the proposed FutureGen 2.0 Project on the region's ability to meet the 24-hour National Ambient Air Quality Standard for particulate matter less than 2.5 microns in diameter (PM 2.5). This updated modeling analysis corrects the State of Illinois' emissions inventory to account for an over-prediction in PM 2.5 impacts and therefore provides a more accurate assessment of the project's potential PM 2.5 impacts. The results of this updated analysis demonstrate that the FutureGen 2.0 Project would not significantly contribute to a modeled exceedance of the 24-hour PM 2.5 standard. (See final EIS at pages 3.1–23). Emissions would be well within the limits of the facility's air permit issued by the Illinois Environmental Protection Agency on December 13, 2013. The project would not jeopardize the attainment status of the region for any criteria pollutant; nor would the project impact the air quality

or visibility at any Class I areas. During normal operations of the oxy-combustion facility, the gas quality control system would incorporate state-of-the-art flue gas scrubbing technology to minimize criteria pollutant emissions from the stack. Beneficial impacts could result from overall lower emissions, as electricity generated by this project may displace electricity generated by traditional coal-fired power plants that emit significantly higher levels of pollutants.

Climate and Greenhouse Gases

Construction-related impacts resulting from tailpipe emissions of greenhouse gases would be minimized by the use of appropriate BMPs, such as maintaining engines according to manufacturers' specifications, minimizing idling of equipment while not in use, and using electricity from the grid if available to reduce the use of diesel or gasoline generators for operating construction equipment.

The capture and geological storage of greenhouse gas emissions by the project would contribute to beneficial cumulative effects on a national and global scale. The proposed project would capture and sequester approximately 1.2 million tons per year (1.1 million metric tons per year) of CO_2 emissions from the generation of 168 MWe of electric power, which would generate approximately 90 percent less greenhouse gas emissions than a similar conventional coal-fired power plant, or approximately 70 percent less than a natural-gas fired power plant. The reduction in CO_2 emissions resulting from the project would incrementally reduce the rate of their accumulation in the atmosphere and help to incrementally mitigate climate change related to atmospheric concentrations of greenhouse gases. On a broader scale, successful implementation of the project may lead to widespread acceptance and deployment of oxy-combustion technology with geologic storage of CO_2, thus fostering a long-term reduction in the rate of CO_2 emissions from power plants.

The Alliance must design and construct the FutureGen 2.0 Project to capture a minimum of 90 percent of the CO_2 in the treated stream when operating under normal conditions, and use best efforts to achieve at least a 90 percent capture rate during the demonstration period.

Physiography and Soils

Construction of the proposed FutureGen 2.0 Project would increase the potential for soil erosion and compaction, increase the amount of impermeable surfaces, and withdraw some prime farmland soils from agricultural production. Construction of the FutureGen 2.0 Project would temporarily disturb up to 418 acres and permanently alter up to 233 acres. Much of the land at the energy center that would be impacted has been previously disturbed, and all of the agricultural land along the pipeline ROW would be restored for agricultural use after construction. The permanent loss of prime farmland for the entire FutureGen 2.0 Project would be approximately 14 acres located at the injection site.

Impacts to prime farmland soils and agricultural uses resulting from the construction and operation of the FutureGen 2.0 Project would be minimized through compliance with an Agricultural Impact Mitigation Agreement and pollution prevention requirements included in the project's National Pollutant Discharge Elimination System permits and Spill Prevention, Control, and Countermeasures plans.

The Alliance signed an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture (included in Appendix H, Agricultural Mitigation, in the final EIS). The Illinois Farm Bureau also participated in the development of the agreement by reviewing and providing comments that were incorporated. The agreement specifies the activities the Alliance would undertake to mitigate any adverse impacts to farmland associated with the construction of the CO_2 pipeline.

Geology

Construction at the Meredosia Energy Center and in the CO_2 pipeline corridor may require excavation of glacial materials. Construction of the injection wells would result in removal of geologic media through the drilling process. This process would not be unique to the area and would not affect the availability of local geologic resources.

Operation of the oxy-combustion facility and CO_2 pipeline would not affect geologic resources. At the injection wells, the potential for CO_2 to migrate out of the injection zone is considered highly unlikely. Computer modeling conducted by the Alliance for their proposed injection well configuration of four horizontal wells installed at one injection well site predicted that the CO_2 plume would expand to encompass an area of approximately 4,000 acres within the CO_2 storage study area over the 20-year injection period. During injection, the Alliance would monitor the formation pressure to ensure that injection-induced seismicity would not occur. The Alliance would also follow a USEPA-approved MVA plan and conduct studies and monitoring to minimize this potential. As required by the UIC permits, appropriate mitigation strategies would be implemented should CO_2 migration be identified.

On November 13, 2013, the Alliance received a Nationwide Permit 12 (NWP–12—Utility Line Activities) from the U.S. Army Corps of Engineers (USACE) which authorizes the Alliance to conduct trenching activities within two ephemeral streams located within the pipeline ROW.

Wetlands and Floodplains

In accordance with 10 CFR part 1022 (DOE regulations for Compliance with Floodplain and Wetland Environmental Review Requirements), DOE assessed the potential impacts of the proposed project and its connected actions on wetlands and floodplains in the affected area. The Alliance selected sites and a pipeline route that would minimize impacts to wetlands and floodplains and has committed to implementing methods designed to further reduce impacts.

No impacts to wetlands would occur at the Meredosia Energy Center as a result of the proposed project. If the Alliance undertakes activities related to the proposed barge unloading facility, then temporary impacts could occur resulting in potential increased sedimentation of the Illinois River from disturbance of the river bottom.

The operational ROW for the CO_2 pipeline contains no National Wetland Inventory-mapped wetlands, but may contain up to 0.5 acre of freshwater wetlands based on a wetland delineation performed by the Alliance in spring 2013. While all perennial streams, intermittent streams, and the majority of wetland areas would be avoided using trenchless technologies, trenching could occur during pipeline construction at certain ephemeral streams that are seasonally dry at the time of construction, as well as within a 0.03-acre wetland swale identified during a wetland delineation by the Alliance. This 0.03-acre area of hydric soils is located in an active agricultural field within the proposed pipeline ROW and was originally assumed to be a non-regulated feature. However, a Preliminary Jurisdictional Determination (PJD) received by the Alliance from the U.S. Army Corps of Engineers (USACE) indicated that, based on a significant nexus to the Illinois River, the 0.03-acre wetland area is considered to be a regulated wetland

feature of ordinary resource value. Concurrently with the PJD, the Alliance received an approved Nationwide Permit—12 ''Utility Line Activities'' (NWP–12) that authorizes trenching activities within this wetland area as well as two ephemeral streams along the pipeline route. The NWP–12 includes numerous permit conditions which must be followed by the Alliance, one of which requires that these features be restored to their original, pre-construction conditions after construction activities are completed. Since the Alliance would comply with all permit conditions, no permanent impacts to wetlands would occur.

Construction within the 100-year floodplain would occur only in areas that are currently developed at the Meredosia Energy Center; therefore, additional impacts are not expected. If the Alliance undertakes activities related to the proposed barge unloading facility, temporary placement of facilities within the 100-year floodplain would occur during construction, and the area would be returned to pre-construction conditions after construction activities are completed. Construction of the CO_2 pipeline unavoidably would cross 100-year floodplains and may result in small ancillary structures being placed in the 100-year floodplain, resulting in minor impacts. Construction at the CO_2 injection well site would avoid floodplains.

Potential Environmental Impacts of the No Action Alternative

Under the no action alternative, DOE assumed that the FutureGen 2.0 Project would not be constructed and that the current suspension of operations at the Meredosia Energy Center would continue. The impacts under the no action alternative (i.e., ''no build'') were evaluated in the EIS and compared to the proposed action. Under the no action alternative, the Meredosia Energy Center, pipeline corridor, and the CO_2 storage site would remain in their current condition with respect to all of the environmental resources evaluated. There would also be no commercial-scale demonstration of the oxy-combustion technology to capture and geologically store CO_2. The development of oxy-combustion repowered plants integrated with CO_2 capture and geologic storage would be delayed or not occur at all, and the reduction of greenhouse gas emissions from coal-fueled power plants would not be advanced.

Environmentally Preferred Alternative

From a local perspective, the no action alternative is the environmentally preferable alternative, because it would result in no changes to existing environmental conditions. However, from a national perspective, DOE's proposed action is the environmentally preferred alternative. Successful demonstration of the proposed FutureGen 2.0 Project could facilitate the deployment of oxy-combustion, carbon capture, and geologic storage technologies at power plants and other industrial facilities in order to reduce greenhouse gas emissions that would otherwise occur from the continued combustion of fossil fuels, especially coal, by large conventional facilities.

Floodplain Statement of Findings

DOE prepared this floodplain statement of findings in accordance with DOE's regulations entitled ''Compliance with Floodplain and Wetland Environmental Review Requirements (10 CFR Part 1022). DOE completed the required floodplain and wetland assessment in coordination with development and preparation of the EIS, and incorporated the results and discussion in Sections 3.6, 3.7, and Appendix D of the final EIS. DOE determined that the placement of some project components within floodplains would be unavoidable. However, the current design for the project minimizes floodplain impacts to the extent practicable. Figures 3.7–2, 3.7–3 and 3.7–4 of the final EIS depict the locations of floodplains that cannot be avoided and therefore would be impacted by the construction and operation of the project.

DOE determined that all practicable design layouts at the Meredosia Energy Center would affect the 100-year floodplain associated with the Illinois River and that no wetlands would be affected. Since portions of the existing facility lie within the 100-year floodplain and the project requires the use and reconstruction of these facilities, DOE and the Alliance did not consider alternate sites outside of the floodplain. However, the Alliance developed the project design to minimize impacts to floodplains to the greatest extent practicable. Based on the current design, 15 acres of 100-year floodplain would be impacted, including 7.6 acres of permanent impact areas and 7.4 acres of temporary impact areas (limited to the construction period). Development of approximately 10 acres of impervious surfaces in areas that were previously pervious (e.g., grassy areas) could result in increased flow velocity and a reduction in infiltration rates in these areas. Certain beneficial aspects of floodplains, such as groundwater recharge and water quality maintenance, could also be reduced by an increase in impervious cover within the floodplain. However, these effects would be minor in terms of the size of the newly paved areas relative to the remaining unpaved areas. The structures associated with the proposed oxy-combustion facility would be constructed at the existing energy center within an area that is outside of mapped floodplains. As a result, the proposed structures would not affect the natural or beneficial values of the floodplain.

One of the primary factors in the design of the CO_2 pipeline route was the avoidance of streams, wetlands, and floodplains. Other factors, such as negotiations with land owners, utilization of existing ROWs, and pipeline security and safety concerns were also considered. In addition, the Alliance has committed to using trenchless technologies to install the pipeline beneath all perennial and intermittent streams, as well as most wetland areas, along the pipeline route. By employing trenchless methods to avoid these areas, the Alliance would also concurrently avoid impacting immediately adjacent or co-located floodplains and wetlands in these areas.

The designated pipeline route for the FutureGen 2.0 Project (referred to as the southern route), would cross 13.2 acres of 100-year floodplain. The majority of floodplain impacts along the pipeline route would be temporary, as the pipeline would be buried and the surface restored to its pre-construction conditions, resulting in only temporary disturbance. Although the pipeline itself would be buried, certain aboveground features associated with the pipeline (e.g., mainline block valves) would be necessary and could result in potential permanent floodplain impacts. However, the impact from these features would be minimal, as they would be limited in number, have small footprints, and would be widely scattered along the 30-mile route. While the exact placement of these small features has not yet been determined, the Alliance has indicated that all surface features would be placed outside of floodplains to the extent possible. As a result, the construction and operation of the pipeline would have a negligible impact on the natural or beneficial values of the floodplains.

The Alliance sited the injection wells and associated infrastructure by selecting areas that did not contain floodplains or wetlands. As a result,

these project features would not affect the natural or beneficial values of floodplains or wetlands. The Alliance has not yet determined the location of the educational facilities, which could involve new construction, rehabilitation of existing structures, or a combination of both types of construction. If development requires new construction, it would most likely occur on previously disturbed land that avoids wetlands and floodplains. Therefore, the construction and operation of the educational facilities are not expected to affect the natural or beneficial values of floodplains or wetlands.

The Alliance has committed to performing all project activities in accordance with all applicable local, state, and federal regulations. The Alliance would ensure that all construction within floodplains is performed in accordance with the requirements of the Illinois Department of Natural Resources (IDNR) and the Morgan County Floodplain Ordinance. The USACE issued a NWP–12 to the Alliance for installation of the CO_2 pipeline. Depending on the types and locations of other proposed construction activities, the Alliance may also be required to obtain additional permits from IDNR prior to any construction activities. In addition to any minimization or mitigation measures required by regulation, DOE and the Alliance have incorporated measures to minimize potential adverse impacts to floodplains into the project design from construction through operation. These measures include, but are not limited to, minimum grading requirements, runoff controls, design and construction constraints and other measures as described in Table 4.2–1 of the final EIS. By incorporating these measures into project designs, DOE and the Alliance would avoid and minimize anticipated adverse impacts to the natural or beneficial values of floodplains and wetlands.

Issued in Washington, DC, on this 13 of January 2014.

Christopher A. Smith,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 2014–01152 Filed 1–21–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–41–000.
Applicants: NorthWestern Corporation, PPL Montana, LLC.
Description: Joint Application for Order Authorizing Acquisition and Disposition of Jurisdictional Facilities of NorthWestern Corporation and PPL Montana, LLC.
Filed Date: 1/10/14.
Accession Number: 20140110–5172.
Comments Due: 5 p.m. ET 1/31/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1819–005; ER10–1820–007; ER10–1818–004; ER10–1817–005.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: Public Service Company of Colorado et al submits revised WACM Exhibit JWS–8, Exhibit JWS–9, and Revised SIL Results for Market-Based Rate Authorization Triennial Market Power Analysis.
Filed Date: 1/10/14.
Accession Number: 20140110–0006.
Comments Due: 5 p.m. ET 1/31/14.

Docket Numbers: ER11–1858–003; ER11–1859–002.
Applicants: NorthWestern Corporation, Montana Generation, LLC.
Description: Notice of Change in Status of NorthWestern Corporation and Montana Generation, LLC.
Filed Date: 1/10/14.
Accession Number: 20140110–5159.
Comments Due: 5 p.m. ET 1/31/14.

Docket Numbers: ER12–673–003; ER12–672–003; ER10–1908–006; ER10–1909–006; ER10–1910–006; ER10–1911–006; ER10–1533–007; ER10–2374–005; ER12–674–004; ER12–670–004.
Applicants: Brea Generation LLC, Brea Power II, LLC, Duquesne Conemaugh LLC, Duquesne Keystone LLC, Duquesne Light Company, Duquesne Power, LLC, Macquarie Energy LLC, Puget Sound Energy, Inc., Rhode Island Engine Genco, LLC, Rhode Island LFG Genco, LLC.
Description: Notice of Non-Material Change in Status of Brea Generation LLC, et al.
Filed Date: 1/13/14.
Accession Number: 20140113–5074.
Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER12–1821–003.
Applicants: Colorado Highlands Wind, LLC.
Description: Notice of Non-Material Change in Status of Colorado Highlands Wind, LLC.
Filed Date: 1/13/14.
Accession Number: 20140113–5059.
Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER14–799–000.
Applicants: Pacific Gas and Electric Company.
Description: TACBAA 2014 Supplemental Information to be effective N/A.
Filed Date: 1/9/14.
Accession Number: 20140109–5125.
Comments Due: 5 p.m. ET 1/30/14.

Docket Numbers: ER14–974–000.
Applicants: Northern Indiana Public Service Company.
Description: Filing of an Amendment to Transmission Upgrade Agreement to be effective 3/12/2014.
Filed Date: 1/10/14.
Accession Number: 20140110–5135
Comments Due: 5 p.m. ET 1/31/14

Docket Numbers: ER14–975–000.
Applicants: Wisconsin Electric Power Company.
Description: ComED Metering Construction and Maintenance Agrmt—FERC RS 133—Jan 2014 to be effective 2/20/2014.
Filed Date: 1/10/14.
Accession Number: 20140110–5141.
Comments Due: 5 p.m. ET 1/31/14.

Docket Numbers: ER14–976–000.
Applicants: Alabama Power Company.
Description: SMEPA Interconnection Agreement Filing to be effective 1/1/2014.
Filed Date: 1/10/14.
Accession Number: 20140110–5144.
Comments Due: 5 p.m. ET 1/31/14.

Docket Numbers: ER14–977–000.
Applicants: Mississippi Power Company.
Description: SMEPA Interconnection Agreement Filing to be effective 1/1/2014.
Filed Date: 1/10/14.
Accession Number: 20140110–5145.
Comments Due: 5 p.m. ET 1/31/14.

Docket Numbers: ER14–978–000.
Applicants: Gulf Power Company.
Description: SMEPA Interconnection Agreement Filing to be effective 1/1/2014.
Filed Date: 1/10/14.
Accession Number: 20140110–5146.
Comments Due: 5 p.m. ET 1/31/14.

Docket Numbers: ER14–979–000.
Applicants: Georgia Power Company.
Description: Georgia Power Company submits tariff filing per 35.13(a)(2)(iii: SMEPA Interchange Agreement Filing to be effective 1/1/2014.
Filed Date: 1/10/14.
Accession Number: 20140110–5147.
Comments Due: 5 p.m. ET 1/31/14.

Docket Numbers: ER14–980–000.
Applicants: ITC Midwest LLC.
Description: Filing of Joint Use Pole Agreement with Ames Municipal Electric Services to be effective 3/15/2014.

Filed Date: 1/13/14.
Accession Number: 20140113–5040.
Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER14–981–000.
Applicants: Southern California Edison Company.
Description: Notice of Cancellation of GIA with Houweling Nurseries Oxnard, Inc. to be effective 10/28/2013.
Filed Date: 1/13/14.
Accession Number: 20140113–5080.
Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER14–982–000.
Applicants: Ameren Illinois Company.
Description: Switching Agreement Between AIC and IMEA to be effective 12/12/2013.
Filed Date: 1/13/14.
Accession Number: 20140113–5081.
Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER14–983–000.
Applicants: Southern California Edison Company.
Description: Tehachapi Wind Energy Storage SGIA and Distribution Service Agmt to be effective 12/15/2013.
Filed Date: 1/13/14.
Accession Number: 20140113–5096.
Comments Due: 5 p.m. ET 2/3/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–19–000.
Applicants: New York State Electric & Gas Corporation.
Description: Amendment to December 24, 2013 Application for Authorization to Issue Short-Term Debt Securities under FPA Section 204 of New York State Electric & Gas Corporation.
Filed Date: 1/10/14.
Accession Number: 20140110–5176.
Comments Due: 5 p.m. ET 1/21/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 85.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 13, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–01073 Filed 1–21–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2835–004.
Applicants: Google Energy LLC.
Description: Notice of Non-Material Change in Status of Google Energy LLC.
Filed Date: 1/13/14.
Accession Number: 20140113–5167.
Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER11–4498–005; ER11–4499–005; ER14–325–001; ER11–4500–004; ER11–4507–004; ER12–128–002; ER11–4501–006; ER12–979–005; ER12–2542–002; ER12–2448–005.
Applicants: Smoky Hills Wind Farm, LLC, Smoky Hills Wind Project II, LLC, Enel Cove Fort, LLC, Enel Stillwater, LLC, Canastota Windpower, LLC, EGP Stillwater Solar, LLC, Caney River Wind Project, LLC, Rocky Ridge Wind Project, LLC, Prairie Rose Wind, LLC, Chisholm View Wind Project, LLC.
Description: Notice of Change in Status of Smokey Hills Wind Farm, LLC, et al.
Filed Date: 1/13/14.
Accession Number: 20140113–5175.
Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER13–2409–001; ER11–4498–006; ER11–4499–006; ER14–325–002; ER11–4500–005; ER11–4507–005; ER12–128–003; ER11–4501–007; ER12–979–006; ER12–2542–003; ER12–2448–006.
Applicants: Buffalo Dunes Wind Project, LLC, Smoky Hills Wind Farm, LLC, Smoky Hills Wind Project II, LLC, Enel Cove Fort, LLC, Enel Stillwater, LLC, Canastota Windpower, LLC, EGP Stillwater Solar, LLC, Caney River Wind Project, LLC, Rocky Ridge Wind Project, LLC, Prairie Rose Wind, LLC, Chisholm View Wind Project, LLC.
Description: Notice of Change in Status of Buffalo Dunes Wind Project, LLC, et al.
Filed Date: 1/13/14.
Accession Number: 20140113–5183.
Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER14–39–001.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits NYISO compliance filing of SCR ACL provisions to be effective 3/15/2014.
Filed Date: 1/10/14.
Accession Number: 20140110–5151.
Comments Due: 5 p.m. ET 1/24/14.

Docket Numbers: ER14–519–000.
Applicants: Astral Energy LLC.
Description: Supplement to December 3, 2013 Astral Energy LLC tariff filing.
Filed Date: 1/13/14.
Accession Number: 20140113–5159.
Comments Due: 5 p.m. ET 1/27/14.

Docket Numbers: ER14–722–000.
Applicants: Utility Expense Reduction, LLC.
Description: Supplement to December 19, 2013 Utility Expense Reduction, LLC tariff filing.
Filed Date: 1/13/14.
Accession Number: 20140113–5182.
Comments Due: 5 p.m. ET 1/27/14.

Docket Numbers: ER14–828–001.
Applicants: Kansas City Power & Light Company.
Description: Amendment to SPP Tariff Filing to be effective 3/1/2014.
Filed Date: 1/13/14.
Accession Number: 20140113–5113.
Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER14–829–001.
Applicants: KCP&L Greater Missouri Operations Company.
Description: Amendment to SPP Tariff Filing to be effective 3/1/2014.
Filed Date: 1/13/14.
Accession Number: 20140113–5117.
Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER14–984–000.
Applicants: AEP Texas North Company.
Description: TNC-Green Pastures Wind I IA to be effective 12/17/2013.
Filed Date: 1/13/14.
Accession Number: 20140113–5105.
Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER14–985–000.
Applicants: AEP Texas North Company.
Description: TNC-Green Pastures Wind II IA to be effective 12/17/2013.
Filed Date: 1/13/14.
Accession Number: 20140113–5108.
Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER14–986–000.
Applicants: Southern California Edison Company.
Description: SGIAs and Distribution Serv Agmts with Rosamond One and Rosamond Two to be effective 12/15/2013.
Filed Date: 1/13/14.
Accession Number: 20140113–5115.
Comments Due: 5 p.m. ET 2/3/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–21–000.

Applicants: AEP Indiana Michigan Transmission Company, AEP Kentucky Transmission Company, Inc., AEP Oklahoma Transmission Company, Inc., AEP Southwestern Transmission Company, Inc., AEP West Virginia Transmission Company, Inc.

Description: Application under Section 204 of the Federal Power Act of AEP Indiana Michigan Transmission Company, Inc. et al for Authorization to Issue Securities.

Filed Date: 1/13/14.

Accession Number: 20140113–5173.

Comments Due: 5 p.m. ET 2/3/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 14, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–01141 Filed 1–21–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–2462–000.

Applicants: Pheasant Run Wind II, LLC.

Description: Request for Authorization of an Earlier Effective Date of January 23, 2013 for Market-Based Rate Tariff of Pheasant Run Wind II, LLC.

Filed Date: 1/14/14.

Accession Number: 20140114–5090.

Comments Due: 5 p.m. ET 1/24/14.

Docket Numbers: ER14–41–001; ER14–42–001; ER12–1911–002; ER12–1912–002; ER12–1913–002; ER12–1915–002; ER12–1916–002; ER12–1917–002.

Applicants: RE Rosamond One LLC, RE Rosamond Two LLC, RE McKenzie 1 LLC, RE McKenzie 2 LLC, RE McKenzie 3 LLC, RE McKenzie 4 LLC, RE McKenzie 5 LLC, RE McKenzie 6 LLC.

Description: Notice of Non-Material Change in Status of KKR MBR Sellers.

Filed Date: 1/13/14.

Accession Number: 20140113–5174.

Comments Due: 5 p.m. ET 2/3/14.

Docket Numbers: ER14–987–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits Amendments Distribution Service Agreements with Coram CELLC and SEPV1 to be effective 12/15/2013.

Filed Date: 1/14/14.

Accession Number: 20140114–5073.

Comments Due: 5 p.m. ET 2/4/14.

Docket Numbers: ER14–989–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits Amendments to Distribution Service Agmts with Several Interconnection Customers to be effective 12/15/2013.

Filed Date: 1/14/14.

Accession Number: 20140114–5077.

Comments Due: 5 p.m. ET 2/4/14.

Docket Numbers: ER14–990–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits 2014–01–14_ER14–___–000_LMR Netting Filing to be effective 3/15/2014.

Filed Date: 1/14/14.

Accession Number: 20140114–5086.

Comments Due: 5 p.m. ET 2/4/14.

Docket Numbers: ER14–991–000.

Applicants: Northern Indiana Public Service Company.

Description: Northern Indiana Public Service Company submits Filing of Supplement to FERC Elec Rate Sch No. 14 to be effective 1/15/2014.

Filed Date: 1/14/14.

Accession Number: 20140114–5089.

Comments Due: 5 p.m. ET 2/4/14.

Docket Numbers: ER14–992–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits Queue Position Y3–046 & Y3–051; Original Service Agreement No. 3685 to be effective 12/12/2013.

Filed Date: 1/14/14.

Accession Number: 20140114–5114.

Comments Due: 5 p.m. ET 2/4/14.

Docket Numbers: ER14–993–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits 2014–01–14_SA 2418_Wolverine-Tower Kleber Amd IA to be effective 3/15/2014.

Filed Date: 1/14/14.

Accession Number: 20140114–5115.

Comments Due: 5 p.m. ET 2/4/14.

Docket Numbers: ER14–994–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits 2014–01–14_SA 1872_Wolverine-Tower Kleber WDS Agr to be effective 3/15/2014.

Filed Date: 1/14/14.

Accession Number: 20140114–5116.

Comments Due: 5 p.m. ET 2/4/14.

Docket Numbers: ER14–995–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits Original Service Agreement No. 3736; Queue No. Y3–026 to be effective 12/12/2013.

Filed Date: 1/14/14.

Accession Number: 20140114–5127.

Comments Due: 5 p.m. ET 2/4/14.

Docket Numbers: ER14–997–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits SGIA and Distribution Service Agmt with TA-High Desert LLC to be effective 12/15/2013.

Filed Date: 1/14/14.

Accession Number: 20140114–5130.

Comments Due: 5 p.m. ET 2/4/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 14, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–01142 Filed 1–22–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0207; FRL–9904–26]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. The registrants submitting voluntary requests for cancellation are Sergeant's Pet Care Products, Inc. (Sergeant's) and Wellmark International (Wellmark). Regarding Sergeant's, EPA intends to grant this request at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the request, or unless the registrant withdraws its request. The cancellations for the Sergeant's propoxur products will not become effective before April 1, 2015, as described in Unit II. of this document. Regarding Wellmark, EPA intends to grant this request, if appropriate, according to the terms of the request, unless the Agency receives substantive comments within the comment period that would merit its further review of the request, or unless the registrant withdraws its request. If EPA grants Wellmark's voluntary request for cancellation, the cancellations for the Wellmark propoxur products will not become effective before April 1, 2015, as described in Unit II. of this document. Regarding both Sergeant's and Wellmark, if these cancellation requests are granted, the Agency will issue cancellation orders that will prescribe conditions pertaining to the sale, distribution, and use of existing stocks of cancelled products, as discussed in Unit V. of this document. For more information regarding the specific details of these voluntary cancellation requests, please see the registrants' requests, available in docket number EPA–HQ–OPP–2009–0207.

DATES: Comments must be received on or before February 21, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–0207, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

Submit written withdrawal request by mail to: Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. ATTN: Kaitlin Keller.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Kaitlin Keller, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8172; email address: *keller.kaitlin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, Federal Register date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What action is the agency taking?

This notice announces receipt by the Agency of requests from Sergeant's Pet Care Products, Inc. (Sergeant's) and Wellmark International (Wellmark) to cancel all 7 propoxur pet collar products registered under FIFRA section 3. Propoxur is an N-methyl residual carbamate insecticide registered for use to control ticks, fleas, and a variety of insects including crickets, ants, wasps, cockroaches, and silverfish. It is registered for use in-and-around industrial, commercial (including food handling establishments and food processing plants), and residential facilities. Residential uses include bait traps, pastes, pet collars, and impregnated shelf paper. There are no labeled agricultural uses.

Sergeant's requested that EPA cancel its product registrations identified in Table 1 of this notice, such cancellations not to be effective before April 1, 2015. Wellmark requested that EPA cancel its product registrations identified in Table 1 of this notice, if appropriate according to the terms and conditions of the request, such cancellations not to be effective before February 1, 2015. Per a follow-up discussion on November 21, 2013, the Agency and Wellmark agreed to an extension of Wellmark's potential effective cancellation date to April 1,

2015. These registrations are listed in sequence by registration number in Table 1 of this unit.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue orders in the **Federal Register** canceling all of the affected registrations, if appropriate, according to the terms and conditions outlined in the registrants' requests for cancellation.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product name	Chemical name
2517–61	Sergeant's Dual Action Flea & Tick Collar (With D-Phenothrin)	Propoxur, MGK 264, Phenothrin.
2517–78	Sergeant's Sendran Flea & Tick Collar	Propoxur.
2517–144	Sergeant's 933 Plus Flea & Tick Collar (With D-Phenothrin and Pyriproxyfen)	Propoxur, MGK 264, Phenothrin, Pyriproxyfen.
2724–254	Dog Collar for Flea Control	Propoxur.
2724–275	Propoxur Flea Collar for Cats RF–101	Propoxur.
2724–491	RF 9907 Flea Collar for Cats and Kittens	Propoxur, S-Methoprene.
2724–493	RF–2007 Collar	Propoxur, S-Methoprene.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company name and address
2517	Sergeant's Pet Care Products, Inc., 10077 South 134th St., Omaha, NE 68138.
2724	Wellmark International, 1501 E. Woodfield Rd., Suite 200 West, Schaumburg, IL 60173.

III. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) provides for the possibility of a 180-day comment period where the voluntary cancellation involves a pesticide registered for at least one minor agricultural use. Because propoxur is not registered for any minor agricultural uses, this 180-day comment provision does not apply, and EPA is providing a 30-day comment period on the requests for voluntary cancellation of the propoxur registrations.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation should submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**.

V. Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action.

In any order issued in response to these requests for cancellation of product registrations, EPA anticipates inclusion of the following provisions for the treatment of any existing stocks of the products identified in Table 1 of Unit II.: Sergeant's and/or Wellmark may not ''release for shipment,'' as that term is defined by 40 CFR 152.3, any additional product as currently formulated after April 1, 2015, and may not sell or distribute existing stocks of such product after April 1, 2016. All sale or distribution of such existing stocks by Sergeant's and/or Wellmark is prohibited after April 1, 2016, unless that sale or distribution is solely for the purpose of facilitating disposal or export of the product consistent with FIFRA section 17.

After April 1, 2016, persons other than the registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

List of Subjects

Environmental protection, Pesticides and pests, Propoxur.

Dated: January 13, 2014.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–01182 Filed 1–21–14; 8:45 am]

BILLING CODE 6560–50–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 24, 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* and to *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: 3060–0674.

Title: Section 76.1618—Basic Tier Availability.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 8,250 respondents; 8,250 responses.

Estimated Time per Response: 2.25 hour.

Frequency of Response: Third party disclosure.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 18,563 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: 47 CFR 76.1618 states that a cable operator shall provide written notification to subscribers of the availability of basic tier service to new subscribers at the time of installation. This notification shall include the following information: (a) That basic tier service is available; (b) the cost per month for basic tier service; and (c) a list of all services included in the basic service tier. These notification requirements are to ensure the subscribers are made aware of the availability of basic cable service at the time of installation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–01092 Filed 1–21–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection 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 24, 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* and to *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: 3060–0178.

Title: Section 73.1560, Operating Power and Mode Tolerances.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 80 respondents; 80 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 80 hours.

Total Annual Costs: None.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: 47 CFR part 73.1560(d) requires that licensees of AM, FM or TV stations file a notification with the FCC when operation at reduced power will exceed ten consecutive days and upon restoration of normal operations. If causes beyond the control of the licensee prevent restoration of authorized power within a 30-day period, an informal written request must be made for any additional time as may be necessary to restore normal operations.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–01091 Filed 1–21–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request Re: Real Estate Lending Standards

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork

Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. As part of its continuing effort to reduce paperwork and respondent burden, the FDIC invites the general public and other Federal agencies to take this opportunity to comment on renewal of an existing information collection, as required by the PRA. On November 4, 2013 (78 FR 66004), the FDIC requested comment for 60 days on renewal of its information collection entitled *Real Estate Lending Standards,* which is currently approved under OMB Control No. 3064–0112. No comments were received on the proposal to renew. The FDIC hereby gives notice of submission to OMB of its request to renew the collection.

DATES: Comments must be submitted on or before February 21, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NYA–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collections of information:

Title: Real Estate Lending Standards.

OMB Number: 3064–0112.

Frequency of Response: On occasion.

Affected Public: Insured financial institutions supervised by the FDIC.

Estimated Number of Respondents: 4,375.

Estimated Time per Response: 20 hours.

Total Annual Burden: 87,500 hours.

General Description of Collection: Institutions use real estate lending policies to guide their lending operations in a manner that is consistent with safe and sound banking practices and appropriate to their size, nature and scope of operations. These policies should address certain lending considerations, including loan-to-value limits, loan administration policies, portfolio diversification standards, and documentation, approval and reporting requirements.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 16th day of January, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–01148 Filed 1–21–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

[Notice 2014–02]

Filing Dates for the North Carolina Special Elections in the 12th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special elections.

SUMMARY: North Carolina has scheduled special elections to fill the U.S. House seat in the 12th Congressional District vacated by Representative Melvin L. Watts. There are three possible special elections, but only two may be necessary.

- *Primary Election:* May 6, 2014.
- *Possible Runoff Election:* July 15, 2014. In the event that the top vote-getter does not achieve over 40% of the votes cast in his/her party's Special Primary Election, the top two vote-getters of that party will participate in a Special Runoff.
- *General Election:* November 4, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 999 E Street NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: Principal Campaign Committees

Special Primary Only

All principal campaign committees of candidates *only* participating in the North Carolina Special Primary shall file a Pre-Primary Report on April 24, 2014. (See chart below for the closing date for the report).

Special Primary and General Without Runoff

If only two elections are held, all principal campaign committees of candidates participating in the North Carolina Special Primary and Special General Elections shall file a Pre-Primary Report on April 24, 2014; a Pre-General Report on October 23, 2014; and a Post-General Report on December 4, 2014. (See chart below for the closing date for each report).

Special Primary and Runoff Elections

If three elections are held, all principal campaign committees of candidates *only* participating in the North Carolina Special Primary and Special Runoff Elections shall file a Pre-Primary Report on April 24, 2014; and a Pre-Runoff Report on July 3, 2014. (See chart below for the closing date for each report.)

Special Primary, Runoff and General Elections

All principal campaign committees of candidates participating in the North Carolina Special Primary, Special Runoff and Special General Elections shall file a Pre-Primary Report on April 24, 2014; a Pre-Runoff Report on July 3, 2014; a Pre-General Report on October 23, 2014; and a Post-General Report on December 4, 2014. (See chart below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a quarterly basis in 2014 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the North Carolina Special Primary, Special Runoff or Special General Elections by the close of books for the applicable report(s). (See chart below for the closing date for each report).

Committees filing monthly that make contributions or expenditures in connection with the North Carolina Special Primary, Special Runoff or Special General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the North Carolina Special Elections may be found on the FEC Web site at *http://www.fec.gov/info/report_dates.shtml.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of the lobbyist bundling disclosure threshold during the special election reporting periods (see charts below for closing date of each period). 11 CFR 104.22(a)(5)(v) and (b).

The lobbyist bundling disclosure threshold for calendar year 2013 was $17,100. This threshold amount may increase in 2014 based upon the annual cost of living adjustment (COLA). Once the adjusted threshold amount becomes available, the Commission will publish it in the **Federal Register** and post it on its Web site. 11 CFR 104.22 (g) and 110.17 (e)(2). For more information on these requirements, see **Federal Register** Notice 2009–03, 74 FR 7285 (February 17, 2009).

CALENDAR OF REPORTING DATES FOR NORTH CAROLINA SPECIAL ELECTIONS COMMITTEES INVOLVED IN *ONLY* THE SPECIAL PRIMARY (05/06/14) MUST FILE

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Pre-Primary	04/16/14	04/21/14	04/24/14
July Quarterly	06/30/14	07/15/14	07/15/14
IF ONLY TWO ELECTIONS ARE HELD, COMMITTEES INVOLVED IN THE SPECIAL PRIMARY (05/06/14) AND SPECIAL GENERAL (11/04/14) MUST FILE:			
Pre-Primary	04/16/14	04/21/14	04/24/14
July Quarterly	06/30/14	07/15/14	07/15/14
October Quarterly	09/30/14	10/15/14	10/15/14
Pre-General	10/15/14	10/20/14	10/23/14
Post-General	11/24/14	12/04/14	12/04/14
Year-End	12/31/14	01/31/15	[2] 01/31/15
IF ONLY TWO ELECTIONS ARE HELD, COMMITTEES INVOLVED IN *ONLY* THE SPECIAL GENERAL (11/04/14) MUST FILE:			
Pre-General	10/15/14	10/20/14	10/23/14
Post-General	11/24/14	12/04/14	12/04/14
Year-End	12/31/14	01/31/15	[2] 01/31/15
IF THREE ELECTIONS ARE HELD, COMMITTEES INVOLVED IN THE SPECIAL PRIMARY (05/06/14) AND SPECIAL RUNOFF (07/15/14) MUST FILE:			
Pre-Primary	04/16/14	04/21/14	04/24/14
Pre-Runoff	06/25/14	06/30/14	07/03/14
July Quarterly	06/30/14	07/15/14	07/15/14
IF THREE ELECTIONS ARE HELD, COMMITTEES INVOLVED IN *ONLY* THE SPECIAL RUNOFF (07/15/14) MUST FILE:			
Pre-Runoff	06/25/14	06/30/14	07/03/14
July Quarterly	06/30/14	07/15/14	07/15/14
COMMITTEES INVOLVED IN THE SPECIAL PRIMARY (05/06/14), SPECIAL RUNOFF (07/15/14) AND SPECIAL GENERAL (11/04/14) MUST FILE:			
Pre-Primary	04/16/14	04/21/14	04/24/14
Pre-Runoff	06/25/14	06/30/14	07/03/14
July Quarterly	06/30/14	07/15/14	07/15/14
October Quarterly	09/30/14	10/15/14	10/15/14
Pre-General	10/15/14	10/20/14	10/23/14
Post-General	11/24/14	12/04/14	12/04/14
Year-End	12/31/14	01/31/15	[2] 01/31/15
IF THREE ELECTIONS ARE HELD, COMMITTEES INVOLVED IN *ONLY* THE SPECIAL GENERAL (11/04/14) MUST FILE:			
Pre-General	10/15/14	10/20/14	10/23/14
Post-General	11/24/14	12/04/14	12/04/14
Year-End	12/31/14	01/31/15	[2] 01/31/15

[1] These dates indicate the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee with the Commission up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail, or electronically, must be received before the Commission's close of business on the last business day before the deadline.

On behalf of the Commission.

Dated: January 15, 2014.

Lee E. Goodman,

Chairman, Federal Election Commission.

[FR Doc. 2014–01094 Filed 1–21–14; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of December 17–18, 2013

In accordance with Section 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on December 17–18, 2013.[1]

Consistent with its statutory mandate, the Federal Open Market Committee seeks monetary and financial conditions that will foster maximum employment and price stability. In particular, the Committee seeks conditions in reserve markets consistent with federal funds trading in a range from 0 to ¼ percent. The Committee directs the Desk to undertake open market operations as necessary to maintain such conditions. Beginning in January, the Desk is directed to purchase longer-term Treasury securities at a pace of about $40 billion per month and to purchase agency mortgage-backed securities at a pace of about $35 billion per month. The Committee also directs the Desk to engage in dollar roll and coupon swap transactions as necessary to facilitate settlement of the Federal Reserve's agency mortgage-backed securities transactions. The Committee directs the Desk to maintain its policy of rolling over maturing Treasury securities into new issues and its policy of reinvesting principal payments on all agency debt and agency mortgage-backed securities in agency mortgage-backed securities. The System Open Market Account Manager and the Secretary will keep the Committee informed of ongoing developments regarding the System's balance sheet that could affect the attainment over time of the Committee's objectives of maximum employment and price stability.

[1] Copies of the Minutes of the Federal Open Market Committee at its meeting held on December 17–18, 2013, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's Annual Report.

By order of the Federal Open Market Committee. January 9, 2014.

William B. English,

Secretary, Federal Open Market Committee.

[FR Doc. 2014–00846 Filed 1–21–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0090: Docket No. 2012–0076; Sequence No. 71]

Federal Acquisition Regulation; Submission for OMB Review; Rights in Data and Copyrights

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning rights in data and copyrights. A notice was published in the **Federal Register** at 78 FR 45196 on July 26, 2013. No comments were received.

DATES: Submit comments on or before February 21, 2014.

ADDRESSES: Submit comments identified by Information Collection 9000–0090, Rights in Data and Copyrights, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0090, Rights in Data and Copyrights''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0090, Rights in Data and Copyrights'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001. ATTN: Hada Flowers/IC 9000–0090, Rights in Data and Copyrights.

Instructions: Please submit comments only and cite Information Collection 9000–0090, Rights in Data and Copyrights, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Marissa Petrusek, Procurement Analyst, at 202–501–0136. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

Subpart 27.4, Rights in Data and Copyrights is a regulation which concerns the rights of the Government and contractors with whom the Government contracts, regarding the use, reproduction, and disclosure of information developed under such contracts. The delineation of such rights is necessary in order to protect the contractor's rights to not disclose proprietary data and to ensure that data developed with public funds is available to the public. The specific clauses associated with this information collection are as follows:

(1) FAR 52.227–15, Representation of Limited Rights Data and Restricted Computer Software. This clauses is included in solicitations if the contracting officer requires an offeror to state whether limited rights data or restricted computer software are likely to be used in meeting the requirements. FAR 52.227–15 requires the contractor to identify whether data proposed for fulfilling the requirements is limited to data rights or restricted software. If the government does not receive unlimited rights, the contractor must provide a list of the data not covered. This information is submitted with a contractor's proposal to the Government. The Government uses the information to identify when there are only limited data rights or restricted software rights.

(2) FAR 52.227–16, Additional Data Requirements. This clause is included in all contracts for experimental, developmental, research, or demonstration work (other than basic or applied research to be performed solely by a university or college where the contract amount will be $500,000 or less). The clause requires that the contractor keep all data first produced in the performance of the contract for a period of three years from the final

acceptance of all items delivered under the contract.

FAR 52.227–16 allows the Government to require delivery of data not initially asked for at anytime during the contract and up to three years after completion. All data covered by this clause is paid for by the Government. FAR 52.227–16 also requires a record-keeping burden from the contractor to maintain data first produced or specifically used in performance of the contract within three years after acceptance of all items delivered under the contract. Much of this data will be in the form of the deliverables provided to the Government under the contract (final report, drawings, specifications, etc.). Some data, however, will be in the form of computations, preliminary data, records of experiments, etc., and these will be the data that will be required to be kept over and above the deliverables. The purpose of such recordkeeping requirements is to ensure that the Government can fully evaluate the research in order to ascertain future activities and to ensure that the research was completed and fully reported, as well as to give the public an opportunity to assess the research results and secure any additional information.

When FAR 52.227–16 was first proposed, comments were received from educational institutions, which stated that requiring their investigators to keep records of unlimited rights data for three years after acceptance of deliverables was unreasonable because investigators do not segregate their research by contract, but rather combine it with other data to continue their research. In light of this, a $500,000 threshold was adopted after surveying the major civilian R&D agencies, whose data suggested that the average value of an R&D contract ranged between $250,000 to $300,000; commensurate with other clause thresholds (*e.g.,* small business subcontracting). Thus, for most R&D contracts with universities, no recordkeeping is required.

(3) FAR 52.227–17, Rights in Data-Special Works. This clause is included in solicitations and contracts primarily for production or compilation of data. FAR 52.227–17 is used in rare and exceptional circumstances to permit the Government to limit the Contractor's rights in data by preventing the release, distribution and publication of any data first produced in the performance of the contract. This clause may also be limited to particular items and not the entire contract.

(4) FAR 52.227–18, Rights in Data-Existing Works. This clause is included in contracts for audiovisual or similar works. FAR 52.227–18 is used when the Government is acquiring existing audiovisual or similar works, such as books, without modification. This clause requires contractors to grant license for the Government to reproduce, prepare derivative works, and perform or display the materials publically.

(5) FAR 52.227–19, Commercial Computer Software License. This clause is used in contracts and purchase orders for the acquisition of commercial software. FAR 52.227–19 requires the Government to set forth the minimum data rights it requires above and beyond what is set forth in the contractor's standard commercial license. The contractor is responsible for affixing a notice on any commercial software delivered under the contract that provides notice that the Government's rights regarding the data are set forth in the contract.

(6) FAR 52.227–20, Rights in Data—SBIR Program. This clause is only required for small business innovation research (SBIR) contracts and it limits the Government's rights to disclose data first produced under the contract.

(7) FAR 52.227–21, Technical Data Declaration, Revisions and Withholding of Payment—Major Systems. This clause requires the contractor to certify that the data delivered under the contract is complete, accurate and compliant with the requirements of the contract.

(8) FAR 52.227–22 Major Systems–Minimum Rights. This clause is used in Civilian Agency Contracts, except for NASA and Coast Guard, providing the Government unlimited rights in any technical data, other than computer software, developed in the performance of the contract and related to a major system or supplies for a major system. As this provision is for major systems only, and few civilian agencies have such major systems, only about 30 contracts will require this certification.

(9) FAR 52.227–23, Rights to Proposal Data (technical). This clause allows the Government to identify pages of a proposal that, as a condition of contact award, would be subject to unlimited rights in the technical data.

(10) FAR 52.227–14, Rights in Data—General. Paragraph (d) outlines a procedure whereby a contracting officer can challenge restrictive markings on data delivered. Under civilian agency contracts, limited rights data or restricted computer software is rarely, if ever, delivered to the Government. Therefore, there will rarely be any challenges. Thus, there is no burden on the public and no information collection associated with this clause.

B. Annual Reporting Burden

A reassessment of the rights in data and copyright provisions was performed. Based on the comprehensive reassessment performed, this information collection requirement represents a decrease from what was published in the **Federal Register** at 75 FR 27782 on May 18, 2010. The decrease is most likely a result of increased use of Governmentwide contracts including the GSA Federal Supply Schedule contracts, an increased use of commercial products since the inception of the clauses, and budget constraints over the last several years that have reduced research and development budgets and the ability to purchase costly data rights.

There is no centralized database in the Federal Government that maintains information regarding the use of rights in data and copyright clauses. Subject matter experts in the intellectual property law field were consulted to obtain additional information that helped in estimating the revised public burden. FedBizOpps was searched to determine the use of these clauses in competitive contract solicitations throughout the Government. The Federal Procurement Data System (FPDS) was used to determine the likely contracts that would contain rights in data and copyright provisions. An assumption was made that sole source contracts citing the existence of limited rights in data, patent rights, copyrights or secret processes would contain the rights in data and copyright clauses, and were used as the basis for this information collection. Consequently, the FPDS data formed the basis for the estimated number of respondents per year based on the likely contracts awarded that would include the applicable clauses associated with this collection (52.227–15 through 52.227–23). The estimated number of contracts was then totaled to determine the overall number of respondents associated with this collection. Estimates were based on the total number of unique contractors awarded a sole source contract based on the existence of limited rights in data, patent rights, copyrights or secret processes. Similarly, FPDS data was used to estimate the number of responses per respondent for this collection. The estimate was based on the average number of actions per contractor and rounded to the nearest whole number. The estimates were then averaged to determine the overall number of responses per respondent associated with this collection. One burden hour was estimated per response

to read and prepare the information. No public comments were received in prior years that have challenged the validity of the Government's estimate.

Respondents: 419.
Responses per Respondent: 2.76.
Annual Responses: 1,156.
Hours per Response: 1.
Total Burden Hours: 1,156.

B. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows:

Recordkeepers: 446.
Responses: 5.
Annual Response: 2,230.
Hours per Recordkeeper: 2.
Total Recordkeeping Burden Hours: 4,460.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 9000–0090, Rights in Data and Copyrights, telephone 202–501–4755. Please cite OMB Control No. 9000–0090, Rights in Data and Copyrights, in all correspondence.

Dated: January 15, 2014.

Karlos Morgan,

Acting Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2014–01098 Filed 1–21–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Annual Update of the HHS Poverty Guidelines

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice provides an update of the Department of Health and Human Services (HHS) poverty guidelines to account for last calendar year's increase in prices as measured by the Consumer Price Index.

DATES: *Effective Date:* Date of publication, unless an office administering a program using the guidelines specifies a different effective date for that particular program.

ADDRESSES: Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: For information about how the guidelines are used or how income is defined in a particular program, contact the Federal, state, or local office that is responsible for that program. For information about poverty figures for immigration forms, the Hill-Burton Uncompensated Services Program, and the number of people in poverty, use the specific telephone numbers and addresses given below.

For general questions about the poverty guidelines themselves, contact Kendall Swenson, Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201—telephone: (202) 690–7507—or visit *http://aspe.hhs.gov/poverty/.*

For information about the percentage multiple of the poverty guidelines to be used on immigration forms such as USCIS Form I–864, Affidavit of Support, contact U.S. Citizenship and Immigration Services at 1–800–375–5283.

For information about the Hill-Burton Uncompensated Services Program (free or reduced-fee health care services at certain hospitals and other facilities for persons meeting eligibility criteria involving the poverty guidelines), contact the Office of the Director, Division of Health Facilities, Health Resources and Services Administration, HHS, Room 10–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. To speak to a staff member, please call (301) 443–5656. To receive a Hill-Burton information package, call 1–800–638–0742 (for callers outside Maryland) or 1–800–492–0359 (for callers in Maryland). You also may visit *http://www.hrsa.gov/gethealthcare/affordable/hillburton/.*

For information about the number of people in poverty, visit the Poverty section of the Census Bureau's Web site at *http://www.census.gov/hhes/www/poverty/poverty.html* or contact the Census Bureau's Customer Service Center at 1–800–923–8282 (toll-free) or visit *https://ask.census.gov* for further information.

SUPPLEMENTARY INFORMATION:

Background

Section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C. 9902(2)) requires the Secretary of the Department of Health and Human Services to update the poverty guidelines at least annually, adjusting them on the basis of the Consumer Price Index for All Urban Consumers (CPI–U). The poverty guidelines are used as an eligibility criterion by the Community Services Block Grant program and a number of other Federal programs. The *poverty guidelines* issued here are a simplified version of the *poverty thresholds* that the Census Bureau uses to prepare its estimates of the number of individuals and families in poverty.

As required by law, this update is accomplished by increasing the latest published Census Bureau poverty thresholds by the relevant percentage change in the Consumer Price Index for All Urban Consumers (CPI–U). The guidelines in this 2014 notice reflect the 1.5 percent price increase between calendar years 2012 and 2013. After this inflation adjustment, the guidelines are rounded and adjusted to standardize the differences between family sizes. The same calculation procedure was used this year as in previous years. (Note that these 2014 guidelines are roughly equal to the poverty thresholds for calendar year 2013 which the Census Bureau expects to publish in final form in September 2014.)

The poverty guidelines continue to be derived from the Census Bureau's current official poverty thresholds; they are not derived from the Census Bureau's new Supplemental Poverty Measure (SPM).

The following guideline figures represent annual income.

2014 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Persons in family/household	Poverty guideline
1	$11,670
2	15,730
3	19,790
4	23,850
5	27,910
6	31,970
7	36,030
8	40,090

For families/households with more than 8 persons, add $4,060 for each additional person.

2014 POVERTY GUIDELINES FOR ALASKA

Persons in family/household	Poverty guideline
1	$14,580
2	19,660
3	24,740
4	29,820
5	34,900
6	39,980
7	45,060
8	50,140

For families/households with more than 8 persons, add $5,080 for each additional person.

2014 POVERTY GUIDELINES FOR HAWAII

Persons in family/household	Poverty guideline
1	$13,420
2	18,090
3	22,760
4	27,430
5	32,100
6	36,770
7	41,440
8	46,110

For families/households with more than 8 persons, add $4,670 for each additional person.

Separate poverty guideline figures for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period. (Note that the Census Bureau poverty thresholds—the version of the poverty measure used for statistical purposes—have never had separate figures for Alaska and Hawaii.) The poverty guidelines are not defined for Puerto Rico or other outlying jurisdictions. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office that administers the program is generally responsible for deciding whether to use the contiguous-states-and-DC guidelines for those jurisdictions or to follow some other procedure.

Due to confusing legislative language dating back to 1972, the poverty guidelines sometimes have been mistakenly referred to as the ''OMB'' (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services. The poverty guidelines may be formally referenced as ''the poverty guidelines updated periodically in the **Federal Register** by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).''

Some federal programs use a percentage multiple of the guidelines (for example, 125 percent or 185 percent of the guidelines), as noted in relevant authorizing legislation or program regulations. Non-Federal organizations that use the poverty guidelines under their own authority in non-Federally-funded activities also may choose to use a percentage multiple of the guidelines.

The poverty guidelines do not make a distinction between farm and non-farm families, or between aged and non-aged units. (Only the Census Bureau poverty thresholds have separate figures for aged and non-aged one-person and two-person units.)

Note that this notice does not provide definitions of such terms as ''income'' or ''family,'' because there is considerable variation in defining these terms among the different programs that use the guidelines. These variations are traceable to the different laws and regulations that govern the various programs. This means that questions such as ''Is income counted before or after taxes?'', ''Should a particular type of income be counted?'', and ''Should a particular person be counted as a member of the family/household?'' are actually questions about how a specific program applies the poverty guidelines. All such questions about how a specific program applies the guidelines should be directed to the entity that administers or funds the program, since that entity has the responsibility for defining such terms as ''income'' or ''family,'' to the extent that these terms are not already defined for the program in legislation or regulations.

Dated: January 17, 2014.

Kathleen Sebelius,

Secretary of Health and Human Services.

[FR Doc. 2014–01303 Filed 1–21–14; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–14–14GT]

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 a Trench Safety CD–ROM for Hispanic Immigrant Workers—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. In this capacity, NIOSH requests Office of Management and Budget approval for a three-year clearance to administer surveys to evaluate an interactive and a non-interactive form of the Spanish language computer-based training for trenching and excavation workers whose format and content have been culturally tailored for Latino immigrant workers.

The rapid growth of the Latino immigrant population in the United States has increased the demand for Spanish-language occupational safety and health training materials. Computer-based training (CBT) has been proven as an effective training tool and is increasingly being used for worksite training. It is also relatively inexpensive to produce, easy to distribute, flexible to implement and requires little communication between employer and their employees, therefore making it an attractive option when considering how to reach Spanish-speaking Latino workers with trench safety training.

CBT can generally be categorized as either interactive or non-interactive. The literature suggests that interactive CBT, where the user engages with the program by interacting with the mouse or keyboard, is more effective than non-interactive CBT (i.e. movie format) in the general population; however, some studies demonstrate that significant barriers to computer use exist among populations unfamiliar with computers, which suggests that a non-interactive training would be more effective for such workers. While the basic effectiveness of interactive CBT has been demonstrated, the interactive

version has never been tested against a non-interactive version to determine which format is the most effective with Latino immigrant workers who are relatively unfamiliar with computers.

In order to better understand which format is more effective, NIOSH is developing two Spanish-language versions of the Trench Safety Awareness Training (TSAT) to test with the target audiences. Pre- and post-test, as well as follow-up tests will be administered to groups of workers 1 month and 3 months after training. Workers will be randomly assigned to receive training via either the interactive or non-interactive computer based program. NIOSH researchers expect to recruit 100 Hispanic immigrant construction workers.

The surveys administered for this study will assess trenching safety knowledge, attitudinal change, and self-reported trenching safety behavior intentions. Differences between pre- and post-training results for each group will be compared for an initial determination as to which version was more effective. Similar follow-up assessments will be conducted one month after training and three months after training in order to assess short term retention of training.

Participants for this data collection will be recruited with the assistance of contractors, such as a research and evaluation firm and a local grass roots not-for-profit organization, who have successfully performed similar tasks for NIOSH in the past. To overcome literacy or computer literacy barriers, the tests will be verbally administered by bilingual NIOSH staff or contractors. It is estimated that each evaluation will take approximately 30 minutes to complete for a total of 200 burden hours.

There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Construction Workers	Trench Safety Awareness Training Survey.	100	4	30/60	200
Total					200

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. 2014–01111 Filed 1–21–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–14–14GW]

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

Total Worker Health for Small Business—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. In this capacity, NIOSH requests Office of Management and Budget (OMB) approval for a three-year clearance to administer in-depth interviews designed to assess perceptions and opinions among small business owners in the Greater Cincinnati area regarding the Total Worker Health concept. This information will guide the development of a model for diffusion of the Total Worker Health approach among small businesses by community organizations.

Total Worker Health (TWH) for Small Business is a four-year field study whose overall goal is to identify the perceived costs and benefits of offering integrated occupational safety and health and workplace wellness services to employees among small businesses, and to inform methods that will successfully diffuse the use of a Total Worker Health approach among small businesses and the community organizations that serve them. The data gathered in this study regarding small businesses' specific training needs, motivational factors, and preferred information sources will be of significant practical value when designing and implementing future interventions.

The proposed in-depth interviews described here for which OMB review and approval is being requested are a critical step toward the development of this TWH diffusion model. Phase 1 of this project included interview development and revision. The primary goal of Phase 2 of this project is to gather key-informant perceptions and opinions among the target audience, small business owners in the greater Cincinnati area. Data gathered from in-depth interviews will guide the development of efforts to diffuse the Total Worker Health approach among small businesses and the community organizations which serve them.

About 90% of U.S. employer organizations have fewer than 20 employees, and 62% have less than five.

Eighteen percent of all U.S. employees work for businesses that have less than 20 employees. In addition, more than 21 million U.S. businesses have zero employees, meaning that, although they are not counted as employees, the owner is also the worker. Workers in smaller organizations endure a disproportionate share of the burden of occupational injuries, illnesses, and fatalities.

There is no data available on the prevalence of TWH programs in smaller organizations. What is known about smaller organizations is divided into information about health protection and health promotion activities. Smaller organizations engage in fewer safety activities than larger organizations. The need for reaching this population with effective, affordable, and culturally appropriate training has been documented in publications and is increasingly becoming an institutional priority at NIOSH.

Given the numerous obstacles which small business owners face in effectively managing occupational safety and health (e.g., financial and time constraints), there is a need for identifying the most crucial components of occupational safety and health and health promotion training.

This interview will be administered to a sample of approximately 60 owners of small businesses with 5–49 employees from the Greater Cincinnati area. Each participant will be administered the survey two times, approximately one year apart to assess for changes in perceptions regarding health protection and health promotion activities. The sample size is based on recommendations related to qualitative interview methods and the research team's prior experience.

Participants for this data collection will be recruited with the assistance of contractors who have successfully performed similar tasks for NIOSH in the past. Participants will be compensated for their time. The interview questionnaire will be administered verbally to participants in English.

Once this study is complete, results will be made available via various means including print publications and the agency internet site. The information gathered by this project could be used by the Occupational Safety and Health Administration (OSHA), state health department, and occupational health providers to determine guidelines for the development of appropriate training materials for small businesses. The results of this project will also benefit small business workers by developing recommendations for increasing the effectiveness of occupational safety and health outreach methods specifically targeted to small businesses. Although beyond the scope of this study, it is expected that improved use of TWH programs will lower rates of injuries and fatalities for workers.

It is estimated that each interview will take approximately 90 minutes to complete for a total of 180 burden hours.

There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Small Business Owners	Interview Form	60	2	1.5	180
Total					180

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. 2014–01112 Filed 1–21–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Request for Specific Consent to Juvenile Court Jurisdiction.

OMB No.: 0970–0385.

Description: The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), Public Law 110–457 was enacted into law December 23, 2008. Section 235(d) directs the Secretary of HHS to grant or deny requests for specific consent for unaccompanied alien children in HHS custody who seek to invoke the jurisdiction of a state court for a dependency order and who also seek to invoke the jurisdiction of a state court to determine or alter his or her custody status or release from ORR. These requests can be extremely time sensitive since a child must ask a state court for dependency before turning 18 years old.

In developing procedures for collecting the necessary information from unaccompanied alien children, their attorneys, or other representatives to allow HHS to approve or deny consent requests, ORR/DUCS devised a form. Specifically, the form asks the requestor for his/her identifying information, basic identifying information on the unaccompanied alien child, the name of the HHS-funded facility where the child is in HHS custody and care, the name of the court and its location, and the kind of request (e.g., for a change in custody, etc.). The form also asks that the unaccompanied alien child's attorney or authorized representative attach a Notice of Representation, which is an approved federal government agency form used for immigration procedures that authorizes the attorney to act on behalf of the child (i.e., G–28, EOIR–28, EOIR–29), or any other form of authorization to act on behalf of the unaccompanied alien child.

Respondents: Attorneys, accredited legal representatives, or others authorized to act on behalf of a unaccompanied alien child.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ORR–0132	72	1	0.33	23.76

Estimated Total Annual Burden Hours: 23.76.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–01133 Filed 1–21–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: ANA Consultant and Evaluator Qualifications Form

OMB No.: 0970–0265

Description: The ANA Consultant and Evaluator Qualifications Form is used to collect information from prospective proposal reviewers in compliance with 42 U.S.C. 2991d 1. The form allows the Commissioner of ANA to select qualified people to review grant applications for Social and Economic Development Strategies (SEDS), Native Language Preservation and Maintenance, and Environmental Regulatory Enhancement. The panel review process is a legislative mandate in the ANA grant funding process.

Respondents: Native Americans, Native Alaskans, Native Hawaiians and other Pacific Islanders.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ANA Consultant and evaluator qualifications form	300	1	1	300

Estimated Total Annual Burden Hours: 300.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–01127 Filed 1–21–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB; Comment Request.

Title: Required Data Elements for Paternity Establishment Affidavits.

OMB No.: 0970–0171.

Description: Section 466(a)(5)(C)(iv) of the Social Security Act (the Act) requires States to develop and use an affidavit for the voluntary acknowledgment of paternity. The affidavit for the voluntary acknowledgment of paternity must include the minimum requirements specified by the Secretary under section 452(a)(7) of the Act. The affidavits will be used by hospitals, birth record

agencies, and other entities participating in the voluntary paternity establishment program.

Respondents: State and Tribal IV–D agencies, hospitals, birth record agencies, and other entities participating in the voluntary paternity establishment program.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
None	1,113,719	1	0.17	189,332.23

Estimated Total Annual Burden Hours: 189,332.23.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget
Paperwork Reduction Project
Email: OIRA_SUBMISSION@OMB.EOP.GOV
Attn: Desk Officer for the Administration for Children and Families

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–01097 Filed 1–21–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Next Series of Tobacco Use Supplements to the Current Population Survey

SUMMARY: 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 National Cancer Institute (NCI), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function 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, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Anne Hartman, Health Statistician, Risk Factor Monitoring and Methods Branch, National Cancer Institute, NIH, MSC 9762, 9609 Medical Center Drive, Bethesda, MD or call non-toll-free number 240–276–6704 or Email your request, including your address to: *hartmana@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Next Series of Tobacco Use Supplements to the Current Population Survey (TUS–CPS), 0925–0368, Expiration Date 03/31/2013, Reinstatement with Change, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The 2014–15 Tobacco Use Supplement-Current Population Survey (TUS–CPS) will be conducted by the Census Bureau and is co-sponsored by the National Cancer Institute (NCI) and the Food and Drug Administration (FDA). Fielded since 1992, most recently in 2010–11, this survey is part of a continuing series of surveys (OMB No. 0925–0368) sponsored by NCI that has been administered triennially as part of the Census Bureau's and the Bureau of Labor Statistics' CPS. For the TUS–CPS, data will be collected from the U.S. civilian non-institutionalized population on smoking, other tobacco use, including switching, flavors, dependence, cessation attempts, and policy and social norms. The TUS–CPS has been a key source of national, state, some local-level, and health disparity data on these topics in U.S. households because it uses a large, nationally representative sample. The 2014–15 TUS–CPS is designed to meet both NCI's and FDA's goals. The NCI and FDA are co-sponsoring the 2014–15 TUS–CPS through parallel, but separate interagency agreements with the Census Bureau. The NCI is particularly focused on policy information such as home and workplace smoking policies, cigarette price, and impact of these on subsequent purchase and use behavior; and changes in smoking norms and attitudes. The FDA aims to support research to aid the development and evaluation of tobacco product regulations. The research findings generated from this program are expected to provide data to inform FDA regulation of the manufacture, distribution, and marketing of tobacco products to protect public health. A unique feature is the ability to link other social and economic Census Bureau and Bureau of Labor Statistics data, other sponsor-supported supplement data, and the National Longitudinal Mortality Study cancer incidence and cause-specific mortality data to the TUS–CPS data. Data will be collected in July 2014, January 2015, and May 2015 from about 255,000 respondents.

OMB approval is requested for 2 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 12,750.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Responses per respondent	Average burden per response (in hour)	Annual burden hours
Individuals	127,500	1	6/60	12,750

Dated: January 15, 2014.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2014–01230 Filed 1–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Infectious Diseases, Reproductive Health, Asthma and Pulmonary Conditions Study Section.

Date: February 12–13, 2014.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Circle Hotel, 1500 New Hampshire Ave. NW., Washington, DC 20036.

Contact Person: Lisa Steele, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 257–2638, *steeleln@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Chronic Dysfunction and Integrative Neurodegeneration Study Section.

Date: February 18, 2014.

Time: 11:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Samuel C Edwards, Ph.D., IRG CHIEF, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: Alcohol and Drugs.

Date: February 19–20, 2014.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, 301–435–1119, *selmanom@csr.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genomics, Computational Biology and Technology Study Section.

Date: February 19–20, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Agenda: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Barbara J Thomas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2218, MSC 7890, Bethesda, MD 20892, 301–435–0603, *bthomas@csr.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Instrumentation and Systems Development Study Section.

Date: February 19–20, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kathryn Kalasinsky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158 MSC 7806, Bethesda, MD 20892, 301–402–1074, *kalasinskyks@mail.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Intercellular Interactions Study Section.

Date: February 19, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.

Contact Person: Wallace Ip, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, 301–435–1191, *ipws@mail.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry B Study Section.

Date: February 19–20, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

Contact Person: Kathryn M Koeller, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–2681, *koellerk@csr.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Surgery, Anesthesiology and Trauma Study Section.

Date: February 19–20, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Hotel and Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@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 15, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–01119 Filed 1–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health, Special Emphasis Panel; NIMH Chemical Synthesis and Drug Supply Program (CSDSP).

Date: February 3, 2014

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS).

Dated: January 15, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–01117 Filed 1–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Diabetes and Bioengineering T32 SEP.

Date: February 20, 2014.

Time: 4:30 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Continuation of a National Endoscopic Database.

Date: February 26, 2014.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 760, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 15, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–01114 Filed 1–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the National Cancer Advisory Board.

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.

A portion of 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 Cancer Advisory Board; Subcommittee on Planning and Budget

Open: February 26, 2014, 6:00 p.m. to 7:30 p.m.

Agenda: Discussion on Planning and Budget.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Contact Person: Dr. Patrick McGarey, Acting Executive Secretary, NCAB *Ad hoc* Subcommittee on Planning and Budget, National Cancer Institute, National Institutes of Health, 31 Center Drive, Room 11A16, Bethesda, MD 20892, (301) 496–5803, *mcgareypo@mail.nih.gov*.

Name of Committee: National Cancer Advisory Board.

Open: February 27, 2014, 9:00 a.m. to 3:30 p.m.

Agenda: Program reports and presentations; business of the Board.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Closed: February 27, 2014, 3:30 p.m. to 5:00 p.m.

Agenda: Review of Grant Applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Dr. Paulette S. Gray, Executive Secretary, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 7W–444, Bethesda, MD 20892, (240) 276–6340, *grayp@dea.nci.nih.gov*.

Name of Committee: National Cancer Advisory Board.

Open: February 28, 2014, 9:00 a.m. to 12 Noon

Agenda: Program reports and presentations; business of the Board.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Dr. Paulette S. Gray, Executive Secretary, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 7W–444, Bethesda, MD 20892, (240) 276–6340, *grayp@dea.nci.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when

applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 15, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–01115 Filed 1–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DEM Fellowship Grant Applications Review.

Date: February 3–4, 2014.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.

Contact Person: Carol J. Goter-Robinson, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 15, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–01121 Filed 1–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health, Special Emphasis Panel, Pediatric Suicide Prevention in Emergency Departments.

Date: January 31, 2014

Time: 11:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health, Special Emphasis Panel, NIMH Research Education Applications (R25).

Date: February 12, 2014.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Rebecca C Steiner, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9608, Bethesda, MD 20892–9608, 301–443–4525, *steinerr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: January 15, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–01116 Filed 1–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Macromolecular Structure and Function C Study Section, February 6, 2014, 08:00 a.m. to February 7, 2014, 07:00 p.m., Marriott at Metro Center, 775 12th Street NW., Washington, DC 20005 which was published in the Federal Register on January 8, 2014, 79 FR 2180.

The meeting will start on February 6, 2014 at 8:00 a.m. and end on February 6, 2014 at 7:00 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: January 15, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–01120 Filed 1–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a Concept Clearance meeting for the NIGMS Human Genetic Cell Repository.

This teleconference meeting will be open to the public. Members of the public who wish to attend the teleconference may participate by calling the toll-free number, 800–475–0553 and enter passcode 43705.

Name of Committee: Concept Clearance for the NIGMS Human Genetic Cell Repository.

Date: January 28, 2014.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To provide concept clearance for re-competition of the contract to operate the NIGMS Human Genetic Cell Repository.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 2As.25R, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Bender, Ph.D., Program Director, Division of Genetics and Developmental Biology, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 2As.25R, Bethesda, MD 20892, (301) 594–0943, *mbender@nigms.nih.gov*.

A draft meeting agenda will be available at *http://www.nigms.nih.gov/Research/SpecificAreas/HGCR/Pages/Concept-Clearance-2014.aspx*.

This notice is being published less than 15 days prior to the meeting due to the special emphasis of the meeting.

(Catalogue of Federal Domestic Assistance Program No. 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: January 15, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–01118 Filed 1–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Executive Order 13650 Improving Chemical Facility Safety and Security Listening Sessions; Correction and Update

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Notice; correction and update.

SUMMARY: The Department of Homeland Security published a document in the **Federal Register** on November 19, 2013 (78 FR 69433), concerning a series of public listening sessions and webinars to solicit comments and suggestions from stakeholders on issues pertaining to Improving Chemical Facility Safety and Security (Executive Order [EO] 13650). The document contained incorrect information regarding the submission of comments and did not include all of the public listening session locations for January 2014.

FOR FURTHER INFORMATION CONTACT: Kathryn Willcutts, at *Kathryn.Willcutts@hq.dhs.gov,* telephone (703) 235–4222.

Correction

In the **Federal Register** of November 19, 2013 (78 FR 69433), on page 69433, in the second column, correct the last **ADDRESSES** paragraph to read:

ADDRESSES: Written comments regarding EO 13650 should be sent to the attention of Kathryn Willcutts, (703) 235–4222, *Kathryn.Willcutts@hq.dhs.gov.* Comments must be identified by the docket number ''DHS–2013–0075'' and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Email: eo.chemical@hq.dhs.gov.* Include the docket number in the subject line of the message.
- *Mail:* DHS/NPPD/IP/ISCD, 245 Murray Lane, Mail Stop 0610, Arlington, VA 20598–0610 Attn.: Kathryn Willcutts.

Instructions: All submissions received must have the words ''Department of Homeland Security,'' and the docket number for this action. All comments received will be posted without change to *www.regulations.gov* to exclude any personal information provided.

In the **Federal Register** of November 19, 2013 (78 FR 69433), on page 69434, in the first column, correct the ''Request for Comments'' paragraph to read:

Regardless of attendance at the public listening sessions and Webinars, interested persons may submit comments by the Federal eRulemaking Portal: *http://www.regulations.gov,* by email at *eo.chemical@hq.dhs.gov* or by mail at DHS/NPPD/IP/ISCD, 245 Murray Lane, Mail Stop 0610, Arlington, VA 20598–0610 Attn.: Kathryn Willcutts.

Update

In the **Federal Register** of November 19, 2013 (78 FR 69433), on page 69433, in the second column, update **DATES** to include:

DATES: The online registration site will include the start and end times for each session. Information regarding the currently scheduled, as well as future listening sessions will be posted on the EO Web site, *https://www.osha.gov/chemicalexecutiveorder/index.html.*

In the **Federal Register** of November 19, 2013 (78 FR 69433), on page 69433, in the second column, update **ADDRESSES** to include:

ADDRESSES: The EO Working Group is pleased to announce additional public listening sessions.

- January 8, 2014, The Zigguart Building, Auditorium, Room 1–301, 707 3rd Street, Sacramento, CA 95605;
- January 9, 2014, Mount St. Mary's College, Doheny Campus, 10 Chester Place, Los Angeles, CA 90007–2598;
- January 10, 2014, James West Alumni Center (JWAC), 325 Westwood Plaza, Los Angeles, CA 90095;
- January 14, 2014, GSA's ROB Auditorium, 301 7th Street SW., (7th and D Streets), Washington, DC 20407; and
- January 24, 2014, Harris County Department of Education Center for Safe and Secure Schools, 6300 Irvington Blvd., Houston, TX 77022.

Dated: January 10, 2014.

Caitlin Durkovich,

Assistant Secretary, Office of Infrastructure Protection.

[FR Doc. 2014–01076 Filed 1–21–14; 8:45 am]

BILLING CODE 9910–9P–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket USCG–2013–1003]

Application for Recertification of Prince William Sound Regional Citizens' Advisory Council

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability; request for comments.

SUMMARY: The Coast Guard announces the availability of, and seeks comments on, the application for recertification submitted by the Prince William Sound Regional Citizen's Advisory Council (PWSRCAC) for March 1, 2014, through February 28, 2015. This advisory group monitors the activities of terminal facilities and crude oil tankers under the Prince William Sound program established by the statute. The current certification for PWSRCAC will expire February 28, 2014.

DATES: Public comments on PWSRCAC's recertification application must reach the Seventeenth Coast Guard District on or before January 31, 2014.

ADDRESSES: You may submit comments identified by docket number USCG–2013–1003 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 recertification, call or email LT Tom Pauser, Seventeenth Coast Guard District (dpi); telephone (907)463–2812; email *thomas.e.pauser@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Request for Comments

Public Participation and Request for Comments

We encourage you to participate in this application for recertification 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.

Submitting Comments

If you submit a comment, please include the docket number for this notice of availability (USCG–2013–1003), 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 (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov*, 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,* click on the ''submit a comment'' box and insert ''USCG–2013–1003'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8.5 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 withhold recertification or grant a conditional recertification based on your comments.

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,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2013–1003'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

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).

Public Meeting

The Coast Guard does not 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 the process of thoroughly considering the application for recertification, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard published guidelines on December 31, 1992 (57 FR 62600), to assist groups seeking recertification under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (33 U.S.C. 2732) (the Act). The Coast Guard issued a policy statement on July 7, 1993 (58 FR 36504), to clarify the factors that the Coast Guard would be considering in making its determination as to whether advisory groups should be certified in accordance with the Act; and the procedures which the Coast Guard would follow in meeting its certification responsibilities under the Act. Most recently, on September 16, 2002 (67 FR 58440), the Coast Guard changed its policy on recertification procedures for regional citizen's advisory council by requiring applicants to provide comprehensive information every three years. For the two years in between, applicants only submit information describing substantive changes to the information provided at the last triennial recertification. This is the year in this triennial cycle that PWSRCAC must provide comprehensive information.

At the conclusion of the comment period, January 31, 2014, the Coast Guard will review all application materials and comments received and will take one of the following actions:

(a) Recertify the advisory group under 33 U.S.C. 2732(o).

(b) Issue a conditional recertification for a period of 90 days, with a statement of any discrepancies, which must be corrected to qualify for recertification for the remainder of the year.

(c) Deny recertification of the advisory group if the Coast Guard finds that the group is not broadly representative of the interests and communities in the area or is not adequately fostering the goals and purposes of 33 U.S.C. 2732.

The Coast Guard will notify PWSRCAC by letter of the action taken on their respective applications. A notice will be published in the **Federal Register** to advise the public of the Coast Guard's determination.

Dated: January 6, 2014.

T.P. Ostebo,

Rear Admiral, U.S. Coast Guard, Commander, Seventeenth Coast Guard District.

[FR Doc. 2014–01179 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–1078]

National Offshore Safety Advisory Committee

AGENCY: United States Coast Guard, DHS.

ACTION: Notice of teleconference meeting.

SUMMARY: The National Offshore Safety Advisory Committee (NOSAC) will meet via teleconference to receive Task Statements and form Subcommittees on (1) Marine Casualty Reporting on the Outer Continental Shelf (OCS) and (2) Recommendations for Offshore Supply Vessel Purpose and Offshore Workers. This meeting will be open to the public.

DATES: The teleconference will take place on Thursday, February 20, 2014, from 2 p.m. to 4 p.m. EST. This meeting may end early if all business is finished before 4 p.m. If you wish to make oral comments at the teleconference, notify Mr. Scott Hartley before the teleconference, as specified in the **FOR FURTHER INFORMATION CONTACT** section. If you wish to submit written comments or make a presentation, submit your comments or request to make a presentation by February 13, 2014.

ADDRESSES: The Committee will meet via teleconference. To participate by phone, please contact Mr. Scott Hartley listed below in the **FOR FURTHER INFORMATION CONTACT** section to obtain teleconference information. Note the number of teleconference lines is limited and will be available on a first-come, first-served basis. To come to the host location in person and join those participating in this teleconference from U.S. Coast Guard Headquarters, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington DC 20593–7509, please contact Mr. Scott Hartley, listed in the **FOR FURTHER INFORMATION CONTACT** section to request directions and building access. You must request building access by February 13, 2014, and present a valid, government-issued photo identification to gain entrance to the Coast Guard Headquarters building.

For information on facilities or services for individuals with disabilities or to request special assistance at the teleconference, contact Mr. Scott Hartley listed in the **FOR FURTHER INFORMATION CONTACT** section, as soon as possible.

If you want to make a presentation, send your request by February 13, 2014, to Mr. Scott Hartley, listed in the **FOR FURTHER INFORMATION CONTACT** section. To facilitate public participation we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below. You may submit a written comment on or before February 13, 2014 or make oral comment during the public comment portion of the teleconference.

To submit a comment in writing, use one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Scott.E.Hartley@uscg.mil.* Include the docket number (USCG–2013–1078) on the subject line of the message.
- *Fax:* (202) 372–8382. Include the docket number (USCG–2013–1078) on the subject line of the fax.
- *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.
- *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 the above methods.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this notice. All comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this Notice, go to *http://www.regulations.gov,* insert USCG–2013–1078 in the Search box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Commander Robert Smith, Designated Federal Official (DFO) of NOSAC, Commandant (CG–OES–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509; telephone (202) 372–1410, fax (202) 372–8382, or Mr. Scott Hartley, Alternate Designated Federal Official (ADFO) of NOSAC, Commandant (CG–OES–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509; telephone (202) 372–1437, fax (202) 372–8382. 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: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463). NOSAC provides advice and recommendations to the Department of Homeland Security on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within U.S. Coast Guard jurisdiction.

Agenda of Meeting

The agenda for the February 20, 2014 teleconference includes:

(1) Presentation, discussion and formation of a Subcommittee to consider a Task Statement titled ''Marine Casualty Reporting on the Outer Continental Shelf.''

(2) Presentation, discussion and formation of a Subcommittee to consider a Task Statement titled ''Offshore Supply Vessel Purpose and Offshore Workers.''

(3) Public comment.

A final agenda will be available on *https://homeport.uscg.mil/nosac.* During the February 20, 2014 meeting, the public comment period will be from approximately 3:45 p.m. to 4 p.m. Speakers are requested to limit their comments to three minutes. Please note that this public comment period may start before 3:45 p.m. if all other agenda items have been covered and may end before 4 p.m. if all of those wishing to comment have done so. Please contact Mr. Scott Hartley, listed in the **FOR FURTHER INFORMATION CONTACT** section to register as a speaker.

Minutes

Minutes from the meeting will be available for public review and copying within 30 days following the meeting at *https://homeport.uscg.mil/NOSAC.*

Notice of Future 2014 NOSAC Meetings

To receive automatic email notices of future NOSAC meetings in 2014, go to the online docket, USCG–2013–1078 (*http://www.regulations.gov/#!docketDetail:D=USCG-2013-1078*), and select the sign-up-for-email-alerts option. We plan to use the same docket number for all NOSAC meetings notice 2014, so when the next meeting notice is published you will receive an email alert from *www.regulations.gov* when the notice appears in this docket.

Dated: January 14, 2014.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2014–01096 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–1066]

Recreational Boating Safety Projects, Programs, and Activities Funded Under Provisions of the Transportation Equity Act for the 21st Century; Fiscal Year 2013

ACTION: Notice.

SUMMARY: In 1999, the Transportation Equity Act for the 21st Century made $5 million per year available for the payment of Coast Guard expenses for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program. In 2005, the law was amended, and the amount was increased to $5.5 million. The Coast Guard is publishing this notice to satisfy a requirement of the Act that a detailed accounting of the projects, programs, and activities funded under the national recreational boating safety program provision of the Act be published annually in the **Federal Register**. This notice specifies the funding amounts the Coast Guard has committed, obligated, or expended during fiscal year 2013, as of September 30, 2013.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, call Jeff Ludwig, Regulations Development Manager, telephone 202–372–1061.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Transportation Equity Act for the 21st Century became law on June 9, 1998 (Pub. L. 105–178; 112 Stat. 107). The Act required that of the $5 million made available to carry out the national recreational boating safety program each year, $2 million shall be available only to ensure compliance with Chapter 43 of Title 46, U.S. Code. On September 29, 2005, the Sportfishing and Recreational Boating Safety Amendments Act of 2005 was enacted (Pub. L. 109–74; 119 Stat. 2031). This Act increased the funds available to the national recreational boating safety program from $5 million to $5.5 million annually, and stated that ''not less than'' $2 million shall be available only to ensure compliance with Chapter 43 of Title 46, U.S. Code.

These funds are available to the Secretary from the Sport Fish Restoration and Boating Trust Fund established under 26 U.S.C. 9504(a) for payment of Coast Guard expenses for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program. Under 46 U.S.C. 13107(c), no funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized; namely, for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program. Amounts made available under 46 U.S.C. 13107(c) remain available during the two succeeding fiscal years. Any amount that is unexpended or unobligated at the end of the 3-year period during which it is available, shall be withdrawn by the Secretary and allocated to the States in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.

Use of these funds requires compliance with standard Federal contracting rules with associated lead and processing times resulting in a lag time between available funds and spending. The total amount of funding transferred to the Coast Guard from the Sport Fish Restoration and Boating Trust Fund and committed, obligated, and/or expended during fiscal year 2013 for each activity is shown below.

Specific Accounting of Funds

Factory Visit Program/Boat Testing Program: Funding was provided to continue the national recreational boat factory visit program, initiated in January 2001. Under the factory visit program, contracted personnel, acting on behalf of the Coast Guard, visited 1,300 recreational boat manufacturers during the 2013 reporting year to either inspect for compliance with Federal regulations, communicate with the manufacturers as to why they need to comply with Federal regulations, or educate them, as necessary, on how to comply with Federal regulations. Funding was also provided for testing of certain associated equipment and in-water testing of atypical and used recreational boats for compliance with capacity and flotation standards. This amount satisfies the legal requirement that ''not less than'' $2 million be available to ensure compliance with Chapter 43 of Title 46, U.S. Code. ($2,516,089).

New Recreational Boating Safety Associated Travel: Funding was provided to facilitate travel by employees of the Boating Safety Division to carry out additional recreational boating safety actions and to gather background and planning information for new recreational boating safety initiatives, in support of the National Recreational Boating Safety Program Strategic Plan. ($10,219).

Boating Accident News Clipping Services: Funding was provided to continue to gather daily news stories of recreational boating accidents nationally for more real time accident information and to identify accidents that may involve regulatory non-compliances or safety defects. ($30,000).

Boating Accident Report Database (BARD) Web System: Funding was allocated to continue providing the BARD Web System, which enables reporting authorities in the 50 States, five U.S. Territories, and the District of Columbia to submit their accident reports electronically over a secure Internet connection. The system also enables the user community to generate statistical reports that show the frequency, nature, and severity of boating accidents. Fiscal year 2013 funds supported system maintenance, development, and technical (hotline) support. ($327,360).

Personnel Support: Funding was provided for personnel to support the development of new regulations and to conduct boating safety-related research and analysis. ($971,198).

Reimbursable Salaries: Funding was provided to carry out the work as prescribed in 46 U.S.C. 13107(c) and as described herein. The first position was that of a professional mathematician/statistician to conduct necessary national surveys and studies on recreational boating activities as well as to serve as a liaison to other Federal agencies that are conducting boating surveys so that we can pool our resources and reduce costs. The second position was that of an Outreach Coordinator with responsibilities that include overseeing and managing RBS projects related to carbon monoxide poisoning, propeller injury mitigation, and manufacturer compliance initiatives. ($301,623).

Web Site Support: Funding for this initiative provides a full range of public media and boating safety information at *http://www.uscgboating.org* for a worldwide audience. It covers a wide spectrum of boating safety related topics and is dedicated to reducing loss of life, injuries, and property damage that occur on U.S. waterways by improving the knowledge, skills, and abilities of recreational boaters. ($81,733).

Of the $5.5 million made available to the Coast Guard in fiscal year 2013, $2,429,831 has been committed, obligated, or expended and an additional $1,808,391 of prior fiscal year funds have been committed, obligated, or expended, as of September 30, 2013. The remainder of the FY13 funds made

available to the Coast Guard (approximately $3,000,000) will be transferred into the pool of money available for allocation through the FY14 state grant program.

Authority

This notice is issued pursuant to 5 U.S.C. 552 and 46 U.S.C. 13107(c)(4).

Dated: December 31, 2013.

J.C. Burton,

Captain, U.S. Coast Guard, Director of Inspections & Compliance.

[FR Doc. 2014–01095 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2013–0056; OMB No. 1660–0072]

Agency Information Collection Activities: Proposed Collection; Comment Request; Mitigation Grant Program/e-Grants.

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning this collection that is used by: (1) Applicants and sub-applicants to apply for and report on e-Grant awards; and (2) the Federal Emergency Management Agency to evaluate, award, and monitor expenditures and program/project performance for Flood Mitigation Assistance and Pre-Disaster Mitigation program activities.

DATES: Comments must be submitted on or before March 24, 2014.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under Docket ID FEMA–2013–0056. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Regulatory Affairs Division, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Cecelia Rosenberg, Chief, Grants Policy Branch, Mitigation Division, Federal Insurance and Mitigation Administration, DHS/FEMA, (202) 646–3321 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: This collection of information is necessary to implement grants for the Flood Mitigation Assistance (FMA) program and the Pre-Disaster Mitigation (PDM) program. The FMA program is authorized by section 1366 of the National Flood Insurance Act of 1968, 42 U.S.C. 4104c, as amended by the National Flood Insurance Reform Act of 2004 (NFIA), Public Law 108–264. The FMA program, under 44 CFR part 79, is designed to award grants so that measures are taken to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insurable under the National Flood Insurance Program (NFIP). In addition, the FMA program now funds projects previously funded under the Repetitive Flood Claims (RFC) and Severe Repetitive Loss (SRL) programs. The Biggert-Waters Flood Insurance Reform Act of 2012, Public Law 112–141 (42 U.S.C. 4001, et seq.) eliminated the RFC and SRL programs, by combining those programs under the FMA program. Projects that were eligible for funding under the old RFC and SRL programs, and that meet criteria consistent with legislative changes made in the Biggert-Waters Act, are now eligible for increased Federal cost share under the FMA program. Under the FMA there will be grant awards for actions that reduce flood damages to individual properties for which one or more claim payments for losses have been made. Also, grant awards will be available for the goal of reducing flood damages to residential properties that have experienced severe repetitive losses under flood insurance coverage.

The PDM program is authorized by Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Act), 42 U.S.C. 5133, as amended. The PDM program provides grants for cost-effective mitigation actions prior to a disaster event to reduce overall risks to the population and structures, while also reducing reliance on funding from actual disaster declarations.

In accordance with OMB Circular A–102, FEMA requires that all parties interested in receiving FEMA mitigation grants submit an application package for grant assistance. The e-Grants system was developed and revamped to meet the intent of the e-Government initiative, authorized by Public Law 106–107. This initiative requires that all government agencies both streamline grant application processes and provide for the means to electronically create, review, and submit a grant application via the Internet.

Collection of Information

Title: Mitigation Grant Program/e-Grants.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0072.

FEMA Forms: No Forms.

Abstract: The FEMA pre-disaster mitigation grant programs—Flood Mitigation Assistance, and Pre-Disaster Mitigation—both utilize an automated grant application and management system known as e-Grants to apply for these grants. These programs provide funding to allow for the reduction or elimination of the risks to life and property from hazards. The e-Grants system also provides the mechanism to provide quarterly reports of the financial status of the project and the final closeout report.

Affected Public: State, local and Tribal Governments.

Number of Respondents: 56

Number of Responses: 5,264

Estimated Total Annual Burden Hours: 43,848.

Estimated Cost: There are no operation and maintenance, or capital and start-up costs associated with this collection of information.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data

collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: January 8, 2014.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–01198 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–13–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1358]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Arkansas:						
Garland	Unincorporated areas of Garland County (13–06–1581P).	The Honorable Rick M. Davis, Garland County Judge, P.O. Box 368, Pearcy, AR 71964.	Garland County Courthouse, 501 Quachita Avenue, Hot Springs, AR 71901.	*http://www.msc.fema.gov/lomc.*	March 17, 2014	050433

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Saline	Unincorporated areas of Saline County, (13–06–1581P).	The Honorable Lanny Fite, Saline County Judge, 200 North Main Street, Room 117, Benton, AR 72015.	Saline County Courthouse, 200 North Main Street, Room 117, Benton, AR 72015.	*http://www.msc.fema.gov/lomc.*	March 17, 2014	050191
New Mexico: Lea	Unincorporated areas of Lea County, (13–06–1634P).	Mr. Michael Gallagher, Manager, Lea County, 100 North Main Street, Suite 4, Lovington, NM 88260.	Lea County, 100 North Main Street, Lovington, NM 88260.	*http://www.msc.fema.gov/lomc.*	March 6, 2014	350130
Pennsylvania: Bucks.	Borough of New Hope, (13–03–1604P).	Mr. John Burke, Manager, Borough of New Hope, 123 New Street, New Hope, PA 18938.	Borough Hall, 123 New Street, New Hope, PA 18938.	*http://www.msc.fema.gov/lomc.*	March 13, 2014	420195
Oklahoma:						
Oklahoma	City of Oklahoma City, (13–06–3021P).	The Honorable Mick Cornett, Mayor, City of Oklahoma City, 200 North Walker Avenue, 3rd Floor, Oklahoma City, OK 73102.	420 West Main Street, Suite 700, Oklahoma City, OK 73102.	*http://www.msc.fema.gov/lomc.*	March 6, 2014	405378
Tulsa	City of Tulsa, (13–06–1997P).	The Honorable Dewey F. Bartlett, Jr., Mayor, City of Tulsa, 175 East 2nd Street, Suite 690, Tulsa, OK 74103.	Engineering Services, 2317 South Jackson Avenue, Room S–312, Tulsa, OK 74107.	*http://www.msc.fema.gov/lomc.*	March 17, 2014	405381
Tulsa	City of Tulsa, (13–06–2412P).	The Honorable Dewey F. Bartlett, Jr., Mayor, City of Tulsa, 175 East 2nd Street, Suite 690, Tulsa, OK 74103.	Engineering Services, 2317 South Jackson Avenue, Room S–312, Tulsa, OK 74107.	*http://www.msc.fema.gov/lomc.*	March 31, 2014	405381
Texas:						
Dallas	City of Dallas, (13–06–2373P).	The Honorable Mike Rawlings, Mayor, City of Dallas, 1500 Marilla Street, Room 5EN, Dallas, TX 75201.	Department of Public Works, 320 East Jefferson Boulevard, Room 307, Dallas, TX 75203.	*http://www.msc.fema.gov/lomc.*	March 17, 2014	480171
Fort Bend	City of Sugar Land, (13–06–4003P).	The Honorable James Thompson, Mayor, City of Sugar Land, P.O. Box 110, Sugar Land, TX 77487.	City Hall, 2700 Town Center Boulevard North, Sugar Land, TX 77479.	*http://www.msc.fema.gov/lomc.*	February 14, 2014	480234
Gray	City of Pampa, (13–06–2524P).	The Honorable Brad Pingel, Mayor, City of Pampa, P.O. Box 2499, Pampa, TX 79066.	200 West Foster Avenue, Pampa, TX 79066.	*http://www.msc.fema.gov/lomc.*	March 31, 2014	480258
Harris	Unincorporated areas of Harris County, (13–06–1076P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Houston, TX 77092.	*http://www.msc.fema.gov/lomc.*	March 6, 2014	480287
Hidalgo	Unincorporated areas of Hidalgo County, (13–06–3440P).	The Honorable Ramon Garcia, Hidalgo County Judge, 302 West University Drive, Edinburg, TX 78539.	Hidalgo County Drainage District, 902 North Doolittle Road, Edinburg, TX 78542.	*http://www.msc.fema.gov/lomc.*	March 13, 2014	480334
Midland	City of Midland, (12–06–4034P).	The Honorable W. Wesley Perry, Mayor, City of Midland, 300 North Loraine Street, Midland, TX 79701.	City Hall, 300 North Loraine Street, Midland, TX 79701.	*http://www.msc.fema.gov/lomc.*	March 10, 2014	480477
Midland	Unincorporated areas of Midland County, (12–06–4034P).	The Honorable Michael R. Bradford, Midland County Judge, 500 North Loraine Street, 11th Floor, Midland, TX 79701.	Midland County Courthouse, 500 North Loraine Street, Midland, TX 79701.	*http://www.msc.fema.gov/lomc.*	March 10, 2014	481239
Montgomery	Unincorporated areas of Montgomery County, (13–06–2600P).	The Honorable Alan B. Sadler, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301.	Montgomery County Permitting Department, 501 North Thompson Street, Suite 100, Conroe, TX 77301.	*http://www.msc.fema.gov/lomc.*	March 24, 2014	480483
Rockwall	City of Rockwall, (13–06–2095P).	The Honorable David Sweet, Mayor, City of Rockwall, 385 South Goliad Street, Rockwall, TX 75087.	City Hall, 385 South Goliad Street, Rockwall, TX 75087.	*http://www.msc.fema.gov/lomc.*	February 28, 2014	480547
Travis	Unincorporated areas of Travis County, (13–06–1967P).	The Honorable Samuel T. Biscoe, Travis County Judge, P.O. Box 1748, Austin, TX 78767.	Travis County Administration Building, Transportation and Natural Resources Department, 700 Lavaca Street, 5th Floor, Austin, TX 78701.	*http://www.msc.fema.gov/lomc.*	March 13, 2014	481026

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Virginia: Roanoke	Unincorporated areas of Roanoke County, (12–03–0347P).	Mr. B. Clayton Goodman, III, Roanoke County Administrator, 5204 Bernard Drive, Roanoke, VA 24018.	Roanoke County Community Development Department, 5204 Bernard Drive, Roanoke, VA 24018.	*http://www.msc.fema.gov/lomc.*	March 13, 2014	510190

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: December 18, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–01146 Filed 1–21–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3366–EM; Docket ID FEMA–2014–0003]

West Virginia; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of West Virginia (FEMA–3366–EM), dated January 10, 2014, and related determinations.

DATES: *Effective Date:* January 10, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 10, 2014, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of West Virginia resulting from a chemical spill beginning on January 9, 2014, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (''the Stafford Act''). Therefore, I declare that such an emergency exists in the State of West Virginia.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Michael J. Lapinski, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of West Virginia have been designated as adversely affected by this declared emergency:

Boone, Clay, Jackson, Kanawha, Lincoln, Logan, Putnam, and Roane Counties for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–01205 Filed 1–21–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3366–EM; Docket ID FEMA–2014–0003]

West Virginia; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of West Virginia (FEMA–3366–EM), dated January 10, 2014, and related determinations.

DATES: Effective January 10, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the State of West Virginia is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared an emergency by the President in his declaration of January 10, 2014.

Cabell County for emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals

and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–01200 Filed 1–21–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4156–DR; Docket ID FEMA–2014–0003]

Nebraska; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Nebraska (FEMA–4156–DR), dated November 26, 2013, and related determinations.

DATES: *Effective Date:* January 7, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Nebraska is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 14, 2013.

Greeley County for Public Assistance. The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–01203 Filed 1–21–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4160–DR; Docket ID FEMA–2014–0003]

Arkansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–4160–DR), dated January 6, 2014, and related determinations.

DATES: Effective January 6, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 6, 2014, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Arkansas resulting from a severe winter storm during the period of December 5–6, 2013, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Arkansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to Section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Timothy J. Scranton, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Arkansas have been designated as adversely affected by this major disaster:

Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Polk, Scott, Searcy, Sebastian, Sharp, and Van Buren Counties for Public Assistance.

All counties within the State of Arkansas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–01206 Filed 1–21–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1351]

Proposed Flood Hazard Determinations

Correction

In notice document 2013–29033 appearing on pages 72920–72922 in the issue of Wednesday, December 4, 2013, make the following correction:

On page 72921, following the heading ''II. NON-WATERSHED-BASED STUDIES:'' The table should appear as follows:

Community	Community map repository address
Montgomery County, Alabama, and Incorporated Areas	
Maps Available for Inspection Online at: *www.fema.gov/preliminaryfloodhazarddata*	
City of Montgomery	City Hall, 103 North Perry Street, Montgomery, AL 36104.
Town of Pike Road	Town Hall, 9575 Vaughn Road, Pike Road, AL 36064.
Unincorporated Areas of Montgomery County	Montgomery County Courthouse Annex 1, 100 South Lawrence Street, Montgomery, AL 36104.
Mohave County, Arizona, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Kingman	City Hall, 310 North 4th Street, Kingman, AZ 86401.
Unincorporated Areas of Mohave County	County Administration Building, 700 West Beale Street, Kingman, AZ 86401.
Yavapai County, Arizona, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Unincorporated Areas of Yavapai County	Yavapai County Flood Control, District Office, 1120 Commerce Drive, Prescott, AZ 86305.
San Bernardino, California, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Ontario	City Hall, Engineering Department Public Counter, 303 East B Street, Ontario, CA 91764.
City of Rancho Cucamonga	City Hall, Engineering Department Plaza Level, 10500 Civic Center Drive, Rancho Cucamonga, CA 91730.
Ventura, California, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Camarillo	Public Works Department, 601 Carmen Drive, Camarillo, CA 93010.
Unincorporated Areas of Ventura County	Ventura County Hall of Administration, 800 South Victoria Avenue, Ventura, CA 93009.
Martin County, Florida, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Stuart	Development Department, 121 Southwest Flagler Avenue, Stuart, FL 34994.
Town of Jupiter Island	Town Hall, 2 Southeast Bridge Road, Hobe Sound, FL 33455.
Town of Ocean Breeze Park	Town Hall, 7 Northeast 3rd Avenue, Jensen Beach, FL 34957.
Town of Sewalls Point	Town Hall, 1 South Sewall's Point Road, Sewall's Point, FL 34996.
Unincorporated Areas of Martin County	Martin County Administration Center, 2401 Southeast Monterey Road, 2nd Floor, Stuart, FL 34996.
Okeechobee County, Florida, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Okeechobee	City Hall, Clerk's Office, 55 Southeast 3rd Avenue, Room 100, Okeechobee, FL 34974.
Unincorporated Areas of Okeechobee County	Okeechobee County Planning and Zoning Division, County Annex Building, 499 Northwest 5th Avenue, Okeechobee, FL 34972.
Claiborne County, Tennessee, and Incorporated Areas	
Maps Available for Inspection Online at: *www.fema.gov/preliminaryfloodhazarddata*	
Unincorporated Areas of Claiborne County	Claiborne County Courthouse, 1740 Main Street, Tazewell, TN 37879.

[FR Doc. C1–2013–29033 Filed 1–21–14; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Docket No. FWS–HQ–FAC–2013–0118; FXFR13360900000–134–FF09F14000]

National Environmental Policy Act: Implementing Procedures; Addition to Categorical Exclusions for U.S. Fish and Wildlife Service

AGENCY: Department of the Interior.

ACTION: Notice; reopening of comment period.

SUMMARY: This notice announces a reopening of the public comment period on the proposed categorical exclusion under the National Environmental Policy Act (NEPA) for the U.S. Fish and Wildlife Service. The proposed categorical exclusion pertains to adding species to the injurious wildlife list under the Lacey Act. The addition of this categorical exclusion to the Department of the Interior's Departmental Manual will improve conservation activities by making the NEPA process for listing injurious species more efficient. If you have previously submitted comments, please do not resubmit them because we have already incorporated them in the public record and will fully consider them in our final decision.

DATES: We will consider comments we receive on or before February 21, 2014.

ADDRESSES: Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–HQ–FAC–2013–0118.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–FAC–2013–0118; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS–2042–PDM; Arlington, VA 22203.

Comments will not be accepted by email or fax. All comments will be posted on *http://www.regulations.gov.* This generally means that any personal information provided will be posted (see the Public Comments section below for more information). All comments that were submitted previously to *prevent_invasives@fws.gov* that were specified in the subject heading as ''Categorical Exclusion'' or that were submitted by mail or hand-delivered to the address specified in the notices for the previous public comments will also be posted on *http://www.regulations.gov.*

Document availability: You may view the proposed categorical exclusion to the Departmental Manual and supporting documents at *http://www.regulations.gov* at Docket No. FWS–HQ–FAC–2013–0118 (78 FR 39307; July 1, 2013).

FOR FURTHER INFORMATION CONTACT: Susan Jewell, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Arlington, VA 22203; telephone 703–358–2416. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2013, the Department of the Interior published a notice in the **Federal Register** (78 FR 39307) proposing to add a categorical exclusion under NEPA to the Departmental Manual for the U.S. Fish and Wildlife Service (Service). The 30-day comment period for the notice ended on July 31, 2013. We received requests to allow more time for public comments. Therefore, on August 16, 2013, the Department of the Interior published a notice in the **Federal Register** (78 FR 50079) reopening the public comment period for an additional 60 days. That comment period ended on October 15, 2013. On October 30, 2013, the Service notified the public via its Web site that it would accept public comments until November 8, 2013.

With this notice, the Department of the Interior is reopening the comment period again, but this time directing comments to *http://www.regulations.gov.* The previous notices instructed the public, if choosing to submit comments electronically, to submit their comments to a Service email address (*prevent_invasives@fws.gov*). Although this method is acceptable, we utilized different forums to announce comment period extensions and experienced some unanticipated technical difficulties posting the public comments on our Web site. Therefore, the Service is reopening the comment period to allow interested members of the public an additional opportunity to provide meaningful comment on this proposal.

Public Comments

We request that you provide comments specifically on our proposed categorical exclusion and related documents available on *http://www.regulations.gov* under Docket No. FWS–HQ–FAC–2013–0118. The notice for the proposed categorical exclusion, the notice for the first reopening period, this notice, and previous public comments received are available under Docket No. FWS–HQ–FAC–2013–0118.

Any comments to be considered on this proposed addition to the list of categorical exclusions in the Departmental Manual must be received by the date listed in **DATES** at the location listed in **ADDRESSES**. Comments received after that date will not be considered. Comments, including names and addresses of respondents, will be posted at *http://www.regulations.gov.* Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

If you have previously submitted comments on this proposed categorical exclusion, please do not resubmit them, because we have already incorporated them in the public record and will fully consider them in our final decision. Comments we received on this proposal after the close of the second comment period (ending October 15, 2013) and by midnight (Eastern Time) of the day before the opening of this third comment period January 22, 2014 at the locations listed in **ADDRESSES** for the second comment period (78 FR 50079; August 16, 2013) will still be accepted and considered.

Dated: January 13, 2014.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 2014–01144 Filed 1–21–14; 8:45 am]
BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–FHC–2013–N101; FF08EVEN00–FXFR1337088SSO0–134]

Marine Mammal Protection Act; Stock Assessment Report

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of final report; response to comments.

SUMMARY: In accordance with the Marine Mammal Protection Act of 1972,

as amended (MMPA), and its implementing regulations, we, the U.S. Fish and Wildlife Service (Service), announce that we have revised our stock assessment report (SAR) for the southern sea otter (*Enhydra lutris nereis*) stock in California State, including incorporation of public comments. We now make our final revised SAR available to the public.

ADDRESSES: *Document Availability:* You may obtain a copy of the SAR from our Web site at *http://www.fws.gov/ventura/species_information/so_sea_otter/index.html.* Alternatively, you may contact the Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003; telephone: 805–644–1766.

FOR FURTHER INFORMATION CONTACT: For information on the methods, data, and results of the stock assessment, contact Lilian Carswell by telephone (805–612–2793) or by email (*Lilian_Carswell@fws.gov*). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Under the MMPA (16 U.S.C. 1361 et seq.) and its implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 18, we regulate the taking, possession, transportation, purchasing, selling, offering for sale, exporting, and importing of marine mammals. One of the goals of the MMPA is to ensure that stocks of marine mammals occurring in waters under U.S. jurisdiction do not experience a level of human-caused mortality and serious injury that is likely to cause the stock to be reduced below its *optimum sustainable population* (OSP) level. OSP is defined under the MMPA as ''. . . the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element'' (16 U.S.C. 1362(9)).

To help accomplish the goal of maintaining marine mammal stocks at their OSPs, section 117 of the MMPA requires the Service and the National Marine Fisheries Service (NMFS) to prepare a SAR for each marine mammal stock that occurs in waters under U.S. jurisdiction. Each SAR must include:

1. A description of the stock and its geographic range;
2. A minimum population estimate, current and maximum net productivity rate, and current population trend;
3. An estimate of annual human-caused mortality and serious injury and, for a strategic stock, other factors that may be causing a decline or impeding recovery of the stock;
4. A description of commercial fishery interactions;
5. A categorization of the status of the stock; and
6. An estimate of the *potential biological removal* (PBR) level.

The MMPA defines the PBR as ''the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its [OSP]'' (16 U.S.C. 1362(20)). The PBR is the product of the minimum population estimate of the stock (N_{min}); one-half the maximum theoretical or estimated net productivity rate of the stock at a small population size (R_{max}); and a recovery factor (F_r) of between 0.1 and 1.0. This can be written as:

$$PBR = (N_{min})(\tfrac{1}{2} \text{ of the } R_{max})(F_r)$$

Section 117 of the MMPA requires the Service and NMFS to review the SARs: (a) At least annually for stocks that are specified as strategic stocks, (b) at least annually for stocks for which significant new information is available, and (c) at least once every 3 years for all other stocks. If our review of the status of a stock indicates that it has changed or may be more accurately determined, then the SAR must be revised accordingly.

A *strategic stock* is defined in the MMPA as a marine mammal stock ''(A) for which the level of direct human-caused mortality exceeds the [PBR] level; (B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 [, as amended] (16 U.S.C. 1531 et seq.) [the ''ESA''], within the foreseeable future; or (C) which is listed as a threatened species or endangered species under the [ESA], or is designated as depleted under [the MMPA].'' (16 U.S.C. 1362(19)).

The southern sea otter SAR was last revised in December, 2008. Because the southern sea otter qualifies as a strategic stock due to its listing as a threatened species under the ESA, the Service reviewed the stock assessment in December of 2009 and again in December of 2010. Both reviews concluded that the status had not changed, nor could it be more accurately determined. However, upon review in 2011, the Service determined that revision was warranted.

Before releasing our draft SAR for public review and comment, we submitted it for technical review internally and also for scientific review by the Pacific Regional Scientific Review Group, which was established under the MMPA (16 U.S.C. 1386(d)). In a May 9, 2012 (77 FR 27246), **Federal Register** notice, we made our draft SAR available for the MMPA-required 90-day public review and comment period. Following the close of the comment period, we revised the SAR based on public comments we received (see Response to Public Comments) and prepared the final revised SAR. Between publication of the draft and final revised SARs, we have not revised the status of the stock itself (the southern sea otter continues to retain its status as a strategic stock). However, we have updated the SAR to include the most recent information available.

The following table summarizes the final revised SAR for southern sea otters in California, listing the stock's N_{min}, R_{max}, F_r, PBR, annual estimated human-caused mortality and serious injury, and status:

SUMMARY: FINAL REVISED STOCK ASSESSMENT REPORT FOR THE SOUTHERN SEA OTTER IN CALIFORNIA

Stock	N_{min}	R_{max}	F_r	PBR	Annual estimated human-caused mortality and serious injury	Stock status
Southern sea otter	2,924	0.06	0.1	8	Figures by specific source, where known, are provided in the SAR.	Strategic.

Response to Public Comments

We received comments on the draft SAR (77 FR 27246) from the Marine Mammal Commission and the Center for Biological Diversity. We present substantive issues raised in those comments that are pertinent to the SAR, along with our responses, below.

Comment 1: While the SAR states that southern sea otter mortalities in gillnets

are believed to be currently at or near zero, there is insufficient observer coverage for reliable estimates. In 2010, observations in the swordfish and thresher shark fishery were only 11.9 percent observer coverage. In the halibut and white seabass set gillnet fishery, observer coverage was at 12.5 percent. In the yellowtail, barracuda, and white seabass drift gillnet only, 4.6 percent of sets were observed. These levels of observer coverage are far below NMFS's goal of 20 percent observer coverage to achieve reliable estimates of marine mammal take. The Service should update its data for observer reports to the present and note that the observer coverage is too low for reliable estimates for take.

Response: We state that southern sea otter mortalities resulting from entanglement in gill nets are likely to be at or near zero because of the depth restrictions that are in place and the current extent of the southern sea otter's range. However, we acknowledge that individual sea otters may occasionally transit areas that are not subject to closures and that levels of observer coverage of gill and trammel net fisheries that may interact with sea otters are low (for those fisheries that are observed at all). We have added the statement that levels of observer coverage of gill and trammel net fisheries are insufficient to confirm an annual incidental mortality and serious injury rate of zero in these fisheries. We have updated the SAR to include the most recent information currently available on observer coverage (through 2012).

Comment 2: The SAR should estimate disease mortalities and report them. Studies have linked the diseased sea otters with *Toxoplasma,* which is likely a result of cat feces in land-based freshwater runoff.

Response: We have added an estimate of mortality due to microcystin intoxication to our discussion of non-fishery-related anthropogenic mortality in the SAR. We discuss protozoal encephalitis, including that caused by *Toxoplasma gondii,* in this same section of the SAR (''Other Mortality''), but we do not include an estimate of the deaths caused by *T. gondii* in our estimate of annual anthropogenic mortality due to non-fishery-related causes because the anthropogenic contribution to these disease levels in sea otters is not sufficiently understood.

Comment 3: The habitat section should also include information about ocean acidification threats to habitat and prey of the southern sea otter. Sea otters consume calcifying organisms that are at risk from ocean acidification. Coastal waters of California are among the most vulnerable to ocean acidification. Survey observations reported that during the upwelling season California's coast is already being exposed to corrosive waters. This can have a detrimental effect on marine habitats, by reducing growth, calcification, survival, and reproduction of many marine organisms. Ocean acidification has been definitively linked to massive oyster die-offs in Oregon.

Response: We have added information about the potential threat to sea otters posed by ocean acidification to the ''Habitat Issues'' section of the SAR.

Comment 4: The threat of entanglement in marine debris, derelict fishing gear, and plastic should be discussed in the habitat section.

Response: We list the number of known sea otter entanglements in marine debris and fishing gear under the heading ''Human-Caused Mortality and Serious Injury.'' Therefore, we have not added a discussion of these threats to the ''Habitat Issues'' section of the SAR.

Comment 5: The SAR should be updated with the current status of progress on ending the no otter zone.

Response: We have updated the SAR to indicate that the translocation program and its respective translocation and management zones were terminated by a rulemaking published on December 19, 2012 (77 FR 75266).

Additional References Cited

Kroeker, K.J., R.L. Kordas, R.N. Crim, and G.G. Singh. 2010. Meta-analysis reveals negative yet variable effects of ocean acidification on marine organisms. Ecology Letters 13:1419–1434.

Kurihara, H., T. Asai, S. Kato, and A. Ishimatsu. 2008. Effects of elevated pCO_2 on early development in the mussel *Mytilus galloprovincialis.* Aquatic Biology 4:225–233.

Monson, D.H., J.A. Estes, J.L. Bodkin, and D.B. Siniff. 2000. Life history plasticity and population regulation in sea otters. *Oikos* 90:457–468.

Stumpp, M., J. Wren, Frank Melzner, M.C. Thorndyke, and S.T. Dupont. 2011. CO_2 induced seawater acidification impacts sea urchin larval development I: Elevated metabolic rates decrease scope for growth and induce developmental delay. Comparative Biochemistry and Physiology, Part A: Molecular & Integrative Physiology 160(3):331–340.

Authority

The authority for this action is the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.).

Dated: January 8, 2014.

Stephen Guertin,

Acting Director, Fish and Wildlife Service.

[FR Doc. 2014–01145 Filed 1–21–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[14X/A11220000.224200/AAK4004800/AX.480ADM1.0000]

Rate Adjustments for Indian Irrigation Projects

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed rate adjustments.

SUMMARY: The Bureau of Indian Affairs (BIA) owns or has an interest in irrigation projects located on or associated with various Indian reservations throughout the United States. We are required to establish irrigation assessment rates to recover the costs to administer, operate, maintain, and rehabilitate these projects. We request your comments on the proposed rate adjustments.

DATES: Interested parties may submit comments on the proposed rate adjustments on or before March 24, 2014.

ADDRESSES: All comments on the proposed rate adjustments must be in writing and addressed to: Yulan Jin, Chief, Division of Water and Power, Office of Trust Services, Mail Stop 4637–MIB, 1849 C Street, NW., Washington, DC 20240, Telephone (202) 219–0941.

FOR FURTHER INFORMATION CONTACT: For details about a particular irrigation project, please use the tables in **SUPPLEMENTARY INFORMATION** section to contact the regional or local office where the project is located.

SUPPLEMENTARY INFORMATION: The first table in this notice provides contact information for individuals who can give further information about the irrigation projects covered by this notice. The second table provides the current 2013 irrigation assessment rates, the proposed rates for the 2014 irrigation season, and proposed rates for subsequent years where these are available.

What is the meaning of the key terms used in this notice?

In this notice:

Administrative costs mean all costs we incur to administer our irrigation projects at the local project level and is

a cost factor included in calculating your operation and maintenance assessment. Costs incurred at the local project level do not normally include Agency, Region, or Central Office costs unless we state otherwise in writing.

Assessable acre means lands designated by us to be served by one of our irrigation projects, for which we collect assessments in order to recover costs for the provision of irrigation service. (See *total assessable acres.*)

BIA means the Bureau of Indian Affairs.

Bill means our statement to you of the assessment charges and/or fees you owe the United States for administration, operation, maintenance, and/or rehabilitation. The date we mail or hand-deliver your bill will be stated on it.

Costs mean the costs we incur for administration, operation, maintenance, and rehabilitation to provide direct support or benefit to an irrigation facility. (See administrative costs, operation costs, maintenance costs, and rehabilitation costs).

Customer means any person or entity to which we provide irrigation service.

Due date is the date on which your bill is due and payable. This date will be stated on your bill.

I, me, my, you and *your* mean all persons or entities that are affected by this notice.

Irrigation project means a facility or portion thereof for the delivery, diversion, and storage of irrigation water that we own or have an interest in, including all appurtenant works. The term ''irrigation project'' is used interchangeably with irrigation facility, irrigation system, and irrigation area.

Irrigation service means the full range of services we provide customers of our irrigation projects. This includes our activities to administer, operate, maintain, and rehabilitate our projects in order to deliver water.

Maintenance costs means costs we incur to maintain and repair our irrigation projects and associated equipment and is a cost factor included in calculating your operation and maintenance assessment.

Operation and maintenance (O&M) assessment means the periodic charge you must pay us to reimburse costs of administering, operating, maintaining, and rehabilitating irrigation projects consistent with this notice and our supporting policies, manuals, and handbooks.

Operation or operating costs means costs we incur to operate our irrigation projects and equipment and is a cost factor included in calculating your O&M assessment.

Past due bill means a bill that has not been paid by the close of business on the 30th day after the due date as stated on the bill. Beginning on the 31st day after the due date, we begin assessing additional charges accruing from the due date.

Rehabilitation costs means costs we incur to restore our irrigation projects or features to original operating condition or to the nearest state which can be achieved using current technology and is a cost factor included in calculating your O&M assessment.

Responsible party means an individual or entity that owns or leases land within the assessable acreage of one of our irrigation projects and is responsible for providing accurate information to our billing office and paying a bill for an annual irrigation rate assessment.

Total assessable acres means the total acres served by one of our irrigation projects.

Water delivery is an activity that is part of the irrigation service we provide our customers when water is available.

We, us, and *our* means the United States Government, the Secretary of the Interior, the BIA, and all who are authorized to represent us in matters covered under this notice.

Does this notice affect me?

This notice affects you if you own or lease land within the assessable acreage of one of our irrigation projects or if you have a carriage agreement with one of our irrigation projects.

Where can I get information on the regulatory and legal citations in this notice?

You can contact the appropriate office(s) stated in the tables for the irrigation project that serves you, or you can use the Internet site for the Government Printing Office at *http://www.gpo.gov.*

Why are you publishing this notice?

We are publishing this notice to notify you that we propose to adjust our irrigation assessment rates. This notice is published in accordance with the BIA's regulations governing its operation and maintenance of irrigation projects, found at 25 CFR Part 171. This regulation provides for the establishment and publication of the rates for annual irrigation assessments as well as related information about our irrigation projects.

What authorizes you to issue this notice?

Our authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583; 25 U.S.C. 385). The Secretary has in turn delegated this authority to the Assistant Secretary—Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual.

When will you put the rate adjustments into effect?

We will put the rate adjustments into effect for the 2014 irrigation season and subsequent years where applicable.

How do you calculate irrigation rates?

We calculate annual irrigation assessment rates in accordance with 25 CFR 171.500 by estimating the annual costs of operation and maintenance at each of our irrigation projects and then dividing by the total assessable acres for that particular irrigation project. The result of this calculation for each project is stated in the rate table in this notice.

What kinds of expenses do you consider in determining the estimated annual costs of operation and maintenance?

Consistent with 25 CFR 171.500, these expenses include the following:

(a) Salary and benefits for the project engineer/manager and project employees under the project engineer/manager's management or control;

(b) Materials and supplies;

(c) Vehicle and equipment repairs;

(d) Equipment costs, including lease fees;

(e) Depreciation;

(f) Acquisition costs;

(g) Maintenance of a reserve fund available for contingencies or emergency costs needed for the reliable operation of the irrigation facility infrastructure;

(h) Maintenance of a vehicle and heavy equipment replacement fund;

(i) Systematic rehabilitation and replacement of project facilities;

(j) Carriage Agreements for the transfer of project water through irrigation facilities owned by others;

(k) Any water storage fees for non BIA-owned reservoirs, as applicable;

(l) Contingencies for unknown costs and omitted budget items; and

(m) Other expenses we determine necessary to properly perform the activities and functions characteristic of an irrigation project.

When should I pay my irrigation assessment?

We will mail or hand-deliver your bill notifying you (a) the amount you owe to the United States and (b) when such amount is due. If we mail your bill, we will consider it as being delivered no

later than 5 business days after the day we mail it. You should pay your bill by the due date stated on the bill.

What information must I provide for billing purposes?

All responsible parties are required to provide the following information to the billing office associated with the irrigation project where you own or lease land within the project's assessable acreage or to the billing office associated with the irrigation project with which you have a carriage agreement:

(1) The full legal name of person or entity responsible for paying the bill;

(2) An adequate and correct address for mailing or hand delivering our bill; and

(3) The taxpayer identification number or social security number of the person or entity responsible for paying the bill.

Why are you collecting my taxpayer identification number or social security number?

Public Law 104–134, the Debt Collection Improvement Act of 1996, requires that we collect the taxpayer identification number or social security number before billing a responsible party and as a condition to servicing the account.

What happens if I am a responsible party but I fail to furnish the information required to the billing office responsible for the irrigation project within which I own or lease assessable land or for which I have a carriage agreement?

If you are late paying your bill because of your failure to furnish the required information listed above, you will be assessed interest and penalties as provided below, and your failure to provide the required information will not provide grounds for you to appeal your bill or any penalties assessed.

What can happen if I do not provide the information required for billing purposes?

We can refuse to provide you irrigation service.

If I allow my bill to become past due, could this affect my water delivery?

Yes. 25 CFR 171.545(a) states: ''We will not provide you irrigation service until: (1) Your bill is paid; or (2) You make arrangement for payment pursuant to § 171.550 of this part.''

If we do not receive your payment before the close of business on the 30th day after the due date stated on your bill, we will send you a past due notice. This past due notice will have additional information concerning your rights. We will consider your past due notice as delivered no later than 5 business days after the day we mail it. We follow the procedures provided in 31 CFR 901.2, ''Demand for Payment,'' when demanding payment of your past due bill.

Are there any additional charges if I am late paying my bill?

Yes. We will assess you interest on the amount owed, using the rate of interest established annually by the Secretary of the United States Treasury (Treasury) to calculate what you will be assessed. You will not be assessed this charge until your bill is past due. However, if you allow your bill to become past due, interest will accrue from the original due date, not the past due date. Also, you will be charged an administrative fee of $12.50 for each time we try to collect your past due bill. If your bill becomes more than 90 days past due, you will be assessed a penalty charge of 6 percent per year, which will accrue from the date your bill initially became past due. Pursuant to 31 CFR 901.9, ''Interest, penalties and administrative costs,'' as a Federal agency, we are required to charge interest, penalties, and administrative costs in accordance with 31 U.S.C. 3717.

What else will happen to my past due bill?

If you do not pay your bill or make payment arrangements to which we agree, we are required to send your past due bill to the Treasury for further action. Under the provisions of 31 CFR 901.1, ''Aggressive agency collection activity,'' federal agencies should consider referring debts that are less than 180 days delinquent, and we must send any unpaid annual irrigation assessment bill to Treasury no later than 180 days after the original due date of the bill.

Who can I contact for further information?

The following tables are the regional and project/agency contacts for our irrigation facilities.

NORTHWEST REGION CONTACTS

Stanley Speaks, Regional Director
Bureau of Indian Affairs, Northwest Regional Office
911 N.E. 11th Avenue
Portland, Oregon 97232–4169
Telephone: (503) 231–6702

Project name	Project/agency contacts
Fort Hall Irrigation Project	Vacant, Superintendent, Fort Hall Agency, P.O. Box 220, Fort Hall, ID 83203–0220, Telephone: (208) 238–2301.
Wapato Irrigation Project	Edwin Lewis, Project Administrator, Wapato Irrigation Project, P.O. Box 220, Wapato, WA 98951–0220, Telephone: (509) 877–3155.

ROCKY MOUNTAIN REGION CONTACTS

Ed Parisian, Regional Director
Bureau of Indian Affairs, Rocky Mountain Regional Office
316 North 26th Street
Billings, Montana 59101
Telephone: (406) 247–7943

ROCKY MOUNTAIN REGION CONTACTS—Continued

Project name	Project/agency contacts
Blackfeet Irrigation Project	Thedis Crowe, Acting Superintendent, Greg Tatsey, Irrigation Project Manager, Box 880, Browning, MT 59417, Telephones: (406) 338–7544, Superintendent, (406) 338–7519, Irrigation Project Manager.
Crow Irrigation Project	Vianna Stewart, Superintendent, Kyle Varvel, Irrigation Project Manager, P.O. Box 69, Crow Agency, MT 59022, Telephones: (406) 638–2672, Superintendent, (406) 638–2863, Irrigation Project Manager.
Fort Belknap Irrigation Project	Cliff Hall, Superintendent, Vacant, Irrigation Project Manager, (Project operations & management contracted to Tribes), R.R.1, Box 980, Harlem, MT 59526, Telephones: (406) 353–2901, Superintendent, (406) 353–8454, Irrigation Project Manager (Tribal Office).
Fort Peck Irrigation Project	Charles Knowlton, Acting Superintendent, P.O. Box 637, Poplar, MT 59255, Huber Wright, Acting Irrigation Project Manager, 602 6th Avenue North, Wolf Point, MT 59201, Telephones: (406) 768–5312, Superintendent, (406) 653–1752, Irrigation Project Manager.
Wind River Irrigation Project	Ray Nation, Acting Superintendent, Brent Allen, Irrigation Project Manager, P.O. Box 158, Fort Washakie, WY 82514, Telephones: (307) 332–7810, Superintendent, (307) 332–2596, Irrigation Project Manager.

SOUTHWEST REGION CONTACTS

William T. Walker, Regional Director
Bureau of Indian Affairs, Southwest Regional Office
1001 Indian School Road
Albuquerque, New Mexico 87104
Telephone: (505) 563–3100

Project name	Project/agency contacts
Pine River Irrigation Project	John Waconda, Superintendent, Vickie Begay, Irrigation Project Manager, P.O. Box 315, Ignacio, CO 81137–0315, Telephones: (970) 563–4511, Superintendent, (970) 563–9484, Irrigation Engineer.

WESTERN REGION CONTACTS

Bryan Bowker, Regional Director
Bureau of Indian Affairs, Western Regional Office
2600 N. Central Ave., 4th Floor Mailroom
Phoenix, Arizona 85004
Telephone: (602) 379–6600

Project name	Project/agency contacts
Colorado River Irrigation Project	MarDon Glory, Acting, Superintendent, Gary Colvin, Acting Irrigation Project Manager, 12124 1st Avenue, Parker, AZ 85344, Telephone: (928) 669–7111.
Duck Valley Irrigation Project	Joseph McDade, Superintendent, 2719 Argent Ave., Suite 4, Gateway Plaza, Elko, NV 89801, Telephone: (775) 738–5165.
Fort Yuma Irrigation Project	Irene Herder, Superintendent, 256 South Second Avenue, Suite D, Yuma, AZ 85364, Telephone: (928) 782–1202.
San Carlos Irrigation Project Joint Works	Ferris Begay, Project Manager, Clarence Begay, Irrigation Manager, 13805 N. Arizona Boulevard, Coolidge, AZ 85128, Telephone: (520) 723–6225.
San Carlos Irrigation Project Indian Works	Cecilia Martinez, Superintendent, Pima Agency, Land Operations, P.O. Box 8, Sacaton, AZ 85247, Telephone: (520) 562–3326.
Uintah Irrigation Project	Johnna Blackhair, Superintendent, Dallas Perank, Acting Irrigation System Manager, P.O. Box 130, Fort Duchesne, UT 84026, Telephone: (435) 722–4300, Telephone: (435) 722–4341.
Walker River Irrigation Project	Athena Brown, Superintendent, 311 E. Washington Street, Carson City, NV 89701, Telephone: (775) 887–3500.

What irrigation assessments or charges are proposed for adjustment by this notice?

The rate table below contains the current rates for all irrigation projects where we recover costs of administering, operating, maintaining, and rehabilitating them. The table also contains the proposed rates for the 2014 season and subsequent years where applicable. An asterisk immediately following the name of the project notes the irrigation projects where rates are proposed for adjustment.

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Project Name	Rate Category	Final 2013 Rate	Proposed 2014 Rate
Fort Hall Irrigation Project	Basic per acre	$47.00	$47.00
	Minimum Charge per tract	$32.50	$32.50
Fort Hall Irrigation Project - Minor Units	Basic per acre	$24.00	$24.00
	Minimum Charge per tract	$32.50	$32.50
Fort Hall Irrigation Project – Michaud	Basic per acre	$47.50	$47.50
	Pressure per acre	$65.50	$65.50
	Minimum Charge per tract	$32.50	$32.50
Wapato Irrigation Project – Toppenish/Simcoe Unit*	Minimum Charge for per bill	$20.00	$23.00
	Basic per acre	$21.00	$23.00
Wapato Irrigation Project - Ahtanum Unit	Minimum Charge per bill	$24.00	$24.00
	Basic per acre	$24.00	$24.00
Wapato Irrigation Project - Satus Unit *	Minimum Charge for per bill	$71.00	$76.00
	"A" Basic per acre	$71.00	$76.00
	"B" Basic per acre	$77.00	$82.00
Wapato Irrigation Project - Additional Works	Minimum Charge per bill	$71.00	$71.00
	Basic per acre	$71.00	$71.00
Wapato Irrigation Project - Water Rental*	Minimum Charge	$79.00	$84.00
	Basic per acre	$79.00	$84.00

Rocky Mountain Region Rate Table			
Project Name	Rate Category	Final 2013 Rate	Proposed 2014 Rate
Blackfeet Irrigation Project	Basic-per acre	$19.50	$19.50
Crow Irrigation Project – Willow Creek O&M (includes Agency, Lodge Grass #1, Lodge Grass #2, Reno, Upper Little Horn, and Forty Mile Units)*	Basic-per acre	$23.80	$24.80
Crow Irrigation Project – All Others (includes Bighorn, Soap Creek, and Pryor Units)*	Basic-per acre	$23.50	$24.50
Crow Irrigation Project - Two Leggins Unit*	Basic-per acre	$14.00	$14.50
Crow Irrigation Two Leggins Drainage District	Basic-per acre	$2.00	$2.00
Fort Belknap Irrigation Project	Basic-per acre	$15.00	$15.00
Fort Peck Irrigation Project	Basic-per acre	$25.00	$25.00
Wind River Irrigation Project – Units 2, 3 and 4*	Basic-per acre	$21.00	$22.10
Wind River Irrigation Project – LeClair District * (see Note#1)	Basic-per acre	$30.84	$28.82
Wind River Irrigation Project – Crow Heart Unit	Basic-per acre	$14.00	$14.00
Wind River Irrigation Project – A Canal Unit	Basic-per acre	$14.00	$14.00
Wind River Irrigation Project – Riverton Valley Irrigation District*	Basic-per acre	$16.00	$21.02

Southwest Region Rate Table			
Project Name	Rate Category	Final 2013 Rate	Proposed 2014 Rate
Pine River Irrigation Project*	Minimum Charge per tract	$50.00	$50.00
	Basic-per acre	$15.00	$16.00

Western Region Rate Table

Project Name	Rate Category	Final 2013 Rate	Proposed 2014 Rate	Proposed 2015 Rate
Colorado River Irrigation Project	Basic per acre up to 5.75 acre-feet	$54.00	$54.00	To be determined
	Excess Water per acre-foot over 5.75 acre-feet	$17.00	$17.00	
Duck Valley Irrigation Project	Basic per acre	$5.30	To Be Determined	
Fort Yuma Irrigation Project (See Note #2)	Basic per acre up to 5.0 acre-feet	$86.00	To Be Determined	
	Excess Water per acre-foot over 5.0 acre-feet	$14.00	To Be Determined	
	Basic per acre up to 5.0 acre-feet (Ranch 5)	$86.00	To Be Determined	
San Carlos Irrigation Project (Joint Works) (See Note #3)	Basic per acre	$30.00	$30.00	$35.00
	Proposed 2013 – 2014 Construction Water Rate Schedule:			

	Off Project Construction	On Project Construction - Gravity Water	On Project Construction - Pump Water
Administrative Fee	$300.00	$300.00	$300.00
Usage Fee	$250.00 per month	No Fee	$100.00 per acre-foot
Excess Water Rate†	$5 per 1000 gal	No charge	No charge

†The excess water rate applies to all water used in excess of 50,000 gallons in any one month.

San Carlos Irrigation Project (Indian Works) (See Note#4)	Basic per acre	$81.00	$81.00	To be determined
Uintah Irrigation Project*	Basic per acre	$16.00	$18.00	
	Minimum Bill	$25.00	$25.00	
Walker River Irrigation Project	Indian per acre	$28.00	$28.00	
	non-Indian per acre	$28.00	$28.00	

* Notes irrigation projects where rates are proposed for adjustment.

Note #1 - The O&M rate varies yearly based upon the budget submitted by the LeClair District.

Note #2 – The O&M rate for the Fort Yuma Irrigation Project has two components. The first component is the O&M rate established by the Bureau of Reclamation (BOR), the owner and operator of the Project. The BOR rate for 2014 is yet to be determined. The second component is for the O&M rate established by BIA to cover administrative costs including billing and collections for the Project. The 2014 BIA rate remains unchanged at $1.50/acre.

Note #3 –The rate schedule establishes the fees assessed for use of irrigation water for non-irrigation purposes.

Note #4 - The 2014 O&M rate for the San Carlos Irrigation Project – Indian Works has three components. The first component is the O&M rate established by the San Carlos Irrigation Project – Indian Works, the owner and operator of the Project; this rate is proposed to be $43 per acre. The second component is for the O&M rate established by the San Carlos Irrigation Project – Joint Works and is determined to be $30.00 per acre. The third component is the O&M rate established by the San Carlos Irrigation Project Joint Control Board and is proposed to be $8 per acre.

BILLING CODE 4310–W7–C

Consultation and Coordination With Tribal Governments (Executive Order 13175)

To fulfill its consultation responsibility to tribes and tribal organizations, BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of water delivery, water availability, and costs of administration, operation, maintenance, and rehabilitation of projects that concern them. This is accomplished at the individual irrigation project by Project, Agency, and Regional representatives, as appropriate, in accordance with local protocol and procedures. This notice is one component of our overall coordination and consultation process to provide notice to, and request comments from, these entities when we adjust irrigation assessment rates.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)

The rate adjustments will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increase use of foreign supplies) should the proposed rate adjustments be implemented. This is a notice for rate adjustments at BIA-owned and operated irrigation projects, except for the Fort Yuma Irrigation Project. The Fort Yuma Irrigation Project is owned and operated by the Bureau of Reclamation with a portion serving the Fort Yuma Reservation.

Regulatory Planning and Review (Executive Order 12866)

These rate adjustments are not a significant regulatory action and do not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

These rate adjustments are not a rule for the purposes of the Regulatory Flexibility Act because they establish ''a rule of particular applicability relating to rates.'' 5 U.S.C. 601(2).

Unfunded Mandates Reform Act of 1995

These rate adjustments do not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than $130 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, the Department is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.).

Takings (Executive Order 12630)

The Department has determined that these rate adjustments do not have significant ''takings'' implications. The rate adjustments do not deprive the public, state, or local governments of rights or property.

Federalism (Executive Order 13132)

The Department has determined that these rate adjustments do not have significant Federalism effects because they will not affect the States, the relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government.

Civil Justice Reform (Executive Order 12988)

In issuing this rule, the Department has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988.

Paperwork Reduction Act of 1995

These rate adjustments do not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget, under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076–0141 and expires March 31, 2016.

National Environmental Policy Act

The Department has determined that these rate adjustments do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370(d)).

Data Quality Act

In developing this notice, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

Dated: January 13, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2014–01154 Filed 1–21–14; 8:45 am]

BILLING CODE 4310–W7–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–887]

Certain Crawler Cranes and Components Thereof; Commission Determination Not To Review an Initial Determination Granting In-Part Complainants' Motion To Amend the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 10) granting in-part the motion of Complainants' to amend the complaint and notice of investigation.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on July 17, 2013, based on a complaint filed by Manitowoc Cranes, LLC (''Manitowoc'') of Manitowoc, Wisconsin. 78 FR 42800–01 (July 17, 2013). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of U.S. Patent No. 7,546,928 (''the '928 patent'') and U.S. Patent No. 7,967,158, and that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337. The complaint further alleges violations of section 337 by reason of trade secret misappropriation, the threat or effect of which is to destroy or substantially injure an industry in the United States or to prevent the establishment of such an industry. The Commission's notice of investigation named Sany Heavy Industry Co., Ltd. of Changsha, China, and Sany America, Inc. of Peachtree City, Georgia as respondents.

On November 15, 2013, Manitowoc filed a motion seeking to amend the complaint and notice of investigation to assert (1) additional patent claims (*i.e.,* claims 6, 8, 10, 11 and 23–26 of the '928 patent), (2) additional trade secrets, and (3) an additional unfair act. The additional trade secrets include: (1) Manitowoc's pricing of its cranes within the domestic industry targeted by the Sany SCC8500 crane, including distributor discounts, profit margins, unit and dollar volumes, and manufacturing costs; (2) certain of Manitowoc's manufacturing processes and procedures, including its boom fabrication procedures, its methods for processing large weldments, and its material testing standards; (3) Manitowoc's engineering design standard for electrical schematics; (4) Manitowoc's pricing arrangements with certain parts vendors; and (5) Manitowoc's quality assurance metrics.

On November 27, 2013, the Office of Unfair Import Investigations (''OUII'') replied and supported the motion in-part. Also on November 27, 2013, Respondents filed a response in which they did not oppose the addition of the patent claims, but opposed the remaining amendments to the complaint and notice of investigation.

On December 13, 2013, the ALJ granted Complainants' motion in-part. The ALJ granted Complainants' motion with respect to the addition of the patent claims and the alleged trade secrets relating to (1) the pricing of Manitowoc's cranes; (2) certain manufacturing process and procedures, that include boom fabrication procedures, methods for processing large weldments, and material testing standards; (3) engineering design standards for electrical schematics; and (4) quality assurance metrics. The ALJ found that the parties would not be prejudiced by the addition of these claims. The ALJ denied Complainants' motion to assert the alleged trade secret relating to Manitowoc's pricing arrangements with certain parts vendors because Manitowoc was aware of the alleged misappropriation before it filed the original complaint. No petitions for review were filed.

The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: January 15, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–01080 Filed 1–21–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–405, 406, and 408 and 731–TA–899–901 and 906–908 (Second Review)]

Hot-Rolled Steel Products From China, India, Indonesia, Taiwan, Thailand, and Ukraine; Determination

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the countervailing duty orders on hot-rolled steel products from India, Indonesia, and Thailand and the antidumping duty orders on hot-rolled steel products from China, India, Indonesia, Taiwan, Thailand, and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews on November 1, 2012 (77 FR 66078) and determined on February 4, 2013 that it would conduct full reviews (78 FR 11901, February 20, 2013). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on April 16, 2013 (78 FR 24435, April 25, 2013) and revised on October 21, 2013 (78 FR 64008, October 25, 2013). The hearing was held in Washington, DC, on October 31, 2013, and all persons who requested the opportunity were permitted to appear in person or by counsel.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Meredith M. Broadbent and F. Scott Kieff dissent with respect to the determinations regarding hot-rolled steel products from Indonesia.

The Commission completed and filed its determination in these reviews on January 15, 2014. The views of the Commission are contained in USITC Publication 4445 (January 2014), entitled *Hot-Rolled Steel Products from China, India, Indonesia, Taiwan, Thailand, and Ukraine (Inv. Nos. 701–TA–405, 406, & 408 and 731–TA–899–901 & 906–908 (Second Review)).*

By order of the Commission.

Issued: January 16, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–01169 Filed 1–21–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–877]

Certain Omega-3 Extracts From Marine or Aquatic Biomass and Products Containing the Same; Commission Determination Not To Review an Initial Determination Granting a Joint Motion To Terminate the Investigation With Respect to Respondents Aker Biomarine as, Aker Biomarine Antarctic as, and Aker Biomarine Antarctic USA, Inc. on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 40) of the presiding administrative law judge (''ALJ'') granting a joint motion to terminate the investigation with respect to respondents Aker Biomarine AS, Aker Biomarine Antarctic AS, and Aker Biomarine Antarctic USA, Inc. on the basis of a settlement agreement in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 17, 2013, based on a complaint filed on January 29, 2013, as amended on March 21, 2013, and supplemented on April 1, 2013, on behalf of Neptune Technologies & Bioressources Inc. of Laval, Québec, Canada and Acasti Pharma Inc., also of Laval, Québec, Canada (collectively, ''Complainants''). 78 FR 22898–99 (April 17, 2013). The amended complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the sale for importation, importation, or sale within the United States after importation of certain omega-3 extracts from marine or aquatic biomass and products containing the same by reason of infringement of one or more of claims 1–46 and 94 of U.S. Patent No. 8,278,351 and claim 1 of the U.S. Patent No. 8,383,675. The Commission's notice of investigation named as respondents Aker BioMarine AS of Oslo, Norway; Aker BioMarine Antarctic USA Inc. of Issaquah, Washington; Aker BioMarine Antarctic AS of Stamsund, Norway; Enzymotec Limited of Industrial Zone K'far Baruch, Israel; Enzymotec USA, Inc. of Morristown, New Jersey; Olympic Seafood AS of Fosnavåg, Norway; Olympic Biotec Ltd. of New Zealand; Avoca, Inc. of Merry Hill, North Carolina; Rimfrost USA, LLC of Merry Hill, North Carolina; and Bioriginal Food & Science Corp. of Saskatoon, Saskatchewan, Canada.

On December 13, 2013, Complainants and respondents Aker Biomarine AS, Aker Biomarine Antarctic AS, and Aker Biomarine Antarctic USA, Inc. (collectively, ''the Aker Respondents'') filed an amended joint motion to terminate the investigation with respect to the Aker Respondents on the basis of a settlement agreement. The motion stated that no other respondent opposed. On December 16, 2013, the Commission investigative attorney filed a response in support of the motion. On December 17, 2013, the ALJ issued the subject ID (Order No. 40), granting Complainants' motion.

After considering the ID and the relevant portions of the record, the Commission has determined not to review the ID. The Commission agrees with the ALJ that the amended joint motion for termination complies with the requirements of Commission rule 210.21 and that the settlement does not adversely affect the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

Dated: January 15, 2014.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–01100 Filed 1–21–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–452 and 731–TA–1129–1130 (Review)]

Raw Flexible Magnets From China and Taiwan

Determination

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the countervailing duty order on raw flexible magnets from China and the antidumping duty orders on raw flexible magnets from China and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on August 1, 2013 (78 FR 46604) and determined on November 20, 2013 that it would conduct expedited reviews (78 FR 73561, December 6, 2013).

The Commission completed and filed its determination in these reviews on January 15, 2014. The views of the Commission are contained in USITC Publication 4449 (January 2014), entitled *Raw Flexible Magnets from China and Taiwan: Investigation Nos. 701–TA–452 and 731–TA–1129–1130 (Review).*

Dated: January 15, 2014.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–01103 Filed 1–21–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–448 and 731–TA–1117 (Review)]

Certain Off-the-Road Tires From China

Determination

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the countervailing duty order and antidumping duty order on certain off-the-road tires from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on August 1, 2013 (78 FR 46607) and determined on November 20, 2013 that it would conduct expedited reviews (78 FR 73560, December 6, 2013).

The Commission completed and filed its determinations in these reviews on January 15, 2014. The views of the Commission are contained in USITC Publication 4448 (January 2014), entitled *Certain Off-the-Road Tires from China: Investigation Nos. 701–TA–448 and 731–TA–1117 (Review).*

Dated: January 15, 2014.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–01102 Filed 1–21–14; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–Ta–849]

Certain Rubber Resins and Processes for Manufacturing Same; Commission Determination To Affirm-in-Part and Reverse-in-Part the Final Initial Determination of the Administrative Law Judge and To Terminate the Investigation With a Finding of Violation With Respect to Certain Respondents; Issuance of Limited Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to affirm-in-part and reverse-in-part the final initial determination (''final ID'') of the administrative law judge (''ALJ'') in the above-identified investigation and to terminate the investigation with a finding of violation with respect to certain respondents. The Commission has issued a limited exclusion order.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 26, 2012, based on a complaint filed on behalf of SI Group, Inc. of Schenectady, New York (''SI Group'') on May 21, 2012, as supplemented on June 12, 2012. 77 FR 38083–84 (June 26, 2012). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''Section 337''), in the sale for importation, importation, or sale after importation into the United States of certain rubber resins by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States. The Commission's notice of investigation named as respondents Red Avenue Chemical Corp. of America of Rochester, New York; Thomas R. Crumlish, Jr. of Rochester, New York; Precision Measurement International LLC of Westland, Michigan; Sino Legend (Zhangjiagang) Chemical Co., Ltd. of Zhangjiagang City, China; Sino Legend Holding Group, Inc. c/o Mr. Richard A. Peters of Kowloon, Hong Kong; Sino Legend Holding Group Ltd. of Hong Kong; HongKong Sino Legend Group, Ltd. of North Point, Hong Kong; Red Avenue Chemical Co. Ltd. of Shanghai, China; Ning Zhang of North Vancouver, Canada; Quanhai Yang of Beijing, China; and Shanghai Lunsai International Trading Company of Shanghai City, China. A Commission investigative attorney participated in this investigation.

On January 14, 2013, the Commission issued notice of its determination not to review an ID to amend the complaint and notice of investigation to add Red Avenue Group Limited of Kowloon, Hong Kong; Sino Legend Holding Group Inc. of Majuro, Marshall Islands; Gold Dynasty Limited c/o ATC Trustees (Cayman) Limited of Grand Cayman, Cayman Islands; Elite Holding Group Inc. c/o Morgan & Morgan Trust Corporation (Belize) Limited of Belize City, Belize as respondents. 78 FR 3817–18 (January 17, 2013).

On June 17, 2013, the presiding ALJ issued his final ID, finding a violation of Section 337. On July 1, 2013, SI and the Respondents filed petitions for review. On July 9, 2013, SI, the Respondents, and the Commission investigative attorney filed responses thereto. On July 16, 2013, Respondents filed a notice of new authority. On July 24, 2013, the Complainant submitted an objection to the notice of new authority.

The following parties and members of the public have submitted statements on the public interest: the Complainant (July 17, 2013); the New York State Chemical Alliance (August 14, 2013); and the American Chemistry Council (August 14, 2013).

On September 9, 2013, the Commission issued notice of its determination to review the final ID in its entirety and to solicit briefing on the issues on review and on remedy, the public interest, and bonding. 78 FR 56734–36 (Sept. 13, 2013). On September 23, 2013, each of the parties filed a written submission, and on September 30, 2013, each of the parties filed a reply submission.

After considering the written submissions on review and the record in this investigation, the Commission has determined to affirm-in-part and reverse-in-part the final ID of the ALJ and to terminate the investigation with a finding of violation of Section 337. Specifically, the Commission has found the following respondents in violation: Precision Measurement International LLC of Westland, Michigan; Sino Legend (Zhangjiagang) Chemical Co., Ltd. of Zhangjiagang City, China; Sino Legend Holding Group, Inc. of Kowloon, Hong Kong; Sino Legend Holding Group Ltd. of Hong Kong; Red Avenue Chemical Co. Ltd. of Shanghai, China; Shanghai Lunsai International Trading Company of Shanghai City, China; Red Avenue Group Limited of Kowloon, Hong Kong; and Sino Legend Holding Group Inc. of Majuro, Marshall Islands. After considering the submissions of the parties on remedy, the public interest, and bonding, the Commission has determined to issue a limited exclusion order for a period of ten (10) years prohibiting the unlicensed importation of rubber resins made using any of the SP–1068 Rubber Resin Trade Secrets that are manufactured by, for, or on behalf of violating respondents or any of their affiliated companies, parents, subsidiaries, licensees, contractors, or other related business entities, or their successors or assigns. The Commission has determined that the public interest factors of 19 U.S.C. 1337(d) do not preclude the issuance of a remedy. The Commission has further determined that the covered products may be imported during the period of Presidential review pursuant to 19 U.S.C. 1337(j) under bond in the amount of 19% of entered value.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

Dated: January 15, 2014.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–01109 Filed 1–21–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On January 10, 2014, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Minnesota in the lawsuit entitled *United States* v. *U.S. Borax Inc.,* Civil Action No. 0:14–cv–00118–DSD.

The proposed consent decree fully resolves claims of the U.S. Environmental Protection Agency (''EPA'') against U.S. Borax Inc. (''Borax'') for response costs, civil penalties, and potential treble damages under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601–9675, with respect to the South Minneapolis Residential Soil Contamination Superfund Site (''Site) in Minneapolis, Minnesota. A complaint, which was filed at the same time that the United States lodged the proposed consent decree, alleges that Borax was an operator of the Site during the period of disposal of hazardous substances and, as such, is liable for response costs under Section107(a) of CERCLA, 42 U.S.C. 9607(a). Further, the complaint alleges that Borax is liable for civil penalties and damages under Sections 106(b) and 107(c)(3) of CERCLA, 32 U.S.C. 9606(b), 9607(c)(3), because it failed to comply with a unilateral administrative order issued by EPA to undertake response actions at the Site. Under the proposed consent decree, Borax shall make a lump sum payment of $1,225,000 to EPA as reimbursement of response costs, and it shall make a lump sum payment of $25,000 for civil penalties and damages. Both payments shall be made to the United States within 30 days of entry of the Consent Decree.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *U.S. Borax Inc.,* D.J. Ref. No. 90–11–3–09719/3. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email.	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will also provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $7.5 (30 pages at 25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–01129 Filed 1–21–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Roderick Lee Mitchell, M.D.; Decision and Order

On June 10, 2013, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Roderick Mitchell, M.D. (Respondent), of Daingerfield, Texas. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration AM1375179, which authorizes him to dispense controlled substances in schedules II through V as a practitioner, and the denial of any pending applications to renew or modify his registration, on the ground that he ''do[es] not have authority to handle controlled substances in the State of Texas,'' the State in which he is registered with DEA. Show Cause Order, at 1 (citing 21 U.S.C. 824(a)(3)).

As the factual basis for the action, the Show Cause Order alleged that on November 30, 2012, ''[t]he Texas Medical Board issued a [f]inal [o]rder . . . which immediately revoked [Respondent's] license to practice

medicine in the State of Texas.'' *Id.* The Show Cause Order also alleged that Respondent's Texas Department of Public Safety Controlled Substances Registration had ''expired on January 23, 2013.'' *Id.* The Order thus alleged that Respondent is ''currently without authority to handle controlled substance in the State of Texas.'' *Id.* Finally, the Show Cause Order notified Respondent of his right to either request a hearing or to submit a written statement while waiving his right to a hearing, the procedure for electing either option, and the consequence of failing to elect either option. *See id.* at 2 (citing 21 CFR 1301.43).

On June 14, 2013, a DEA Diversion Investigator (DI) and Task Force Officer (TFO) went to Respondent's residence in an attempt to personally serve him with the Show Cause Order. GX 2, at 3. The DI and TFO identified themselves to the person who answered the door, and who, based on Respondent's driver's license photo, appeared to be the Respondent; however, the person denied that he was Respondent. *Id.* According to the DI, this person shouted to them, ''[y']all need to stop harassing me'' and slammed the door shut. *Id.* at 4.

Later that same day, the DI mailed two copies of the Show Cause Order to Respondent: one by Certified Mail, Return Receipt Requested, the other by first class mail. *Id.* On June 17, Respondent received the mailing, as evidenced by both the signed return receipt card and a print-out from the U.S. Postal Services Track and Confirm Web page. GX 5, at 3–4.

Moreover, on July 2, 2013, Respondent wrote a letter to the DEA Resident Office in Tyler, Texas and enclosed a copy of a New Mexico Controlled Substance Registration. GX 9, at 3–4. Therein, Respondent wrote: ''This should clear up the issue of my ability to possess a DEA license. Please contact my attorney and I [sic] if this does not solve the problem of my possessing a DEA license.'' *Id.* at 3. However, in the letter, Respondent did not request a hearing on the allegations of the Show Cause Order. *See id.* Thereafter, on October 9, 2013, the Government submitted a Request for Final Agency Action along with the Investigative Record it compiled.

Based on Respondent's failure to request a hearing, I find that he has waived his right to a hearing. *See* 21 CFR 1301.43(b). However, pursuant to 21 CFR 1301.43(c), Respondent's July 2, 2013 letter has been ''made a part of the record'' and will be considered in this Decision. I make the following findings of fact.

Findings

Respondent is the holder of DEA Certificate of Registration AM1375179, which authorizes him to dispense controlled substances in schedules II through V, as a practitioner, at registered premises located in Daingerfield, Texas. GX 3, at 2. Respondent's registration does not expire until January 31, 2015. *Id.*

Respondent formerly held a medical license issued by the Texas Medical Board. However, on November 30, 2012, the Board issued a final order revoking Respondent's medical license based on findings that he ''failed to meet the standard of care and did not maintain adequate medical records.'' GX 6, at 2–3. On December 29, 2012, Respondent filed a motion for rehearing; however, on January 18, 2013, the Board denied the motion and the order of revocation became effective the same day. *Id.* at 2.

Respondent also held a Texas Department of Public Safety Controlled Substances Registration. GX 7, at 2–3. However, on January 23, 2013, this registration expired. *Id.* Accordingly, I find that Respondent lacks authority under the laws of Texas to dispense controlled substances.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 ''upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' Moreover, DEA has repeatedly held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See James L. Hooper,* 76 FR 71371, 71371 (2011) (citing *Leonard F. Faymore,* 48 FR 32886, 32887 (1983)), *pet. for rev. denied, Hooper* v. *Holder,* No. 11–2351, 2012 WL 2020079, at *2 (4th Cir. Jun. 6, 2012) (unpublished).

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction when he is no longer authorized to dispense controlled substances under the laws of the State in which he practices medicine. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988).

Here, the Government has put forward unrefuted evidence that Respondent's Texas Medical License has been revoked and that his Texas controlled substance registration has expired. While Respondent submitted a copy of a state controlled substance registration issued by the State of New Mexico, the existence of this registration is immaterial because the DEA registration, which is the subject of the Order to Show Cause, authorizes him to dispense controlled substances in the State of Texas, where it is clear he is not authorized to dispense controlled substances and thus no longer meets the statutory definition of a practitioner under the Act. *See* 21 U.S.C. 802(21). Accordingly, I will order that Respondent's Certificate of Registration be revoked and that any pending applications to renew or modify this registration be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a)(3), as well as 28 CFR 0.100(b) and 0.104, I order that DEA Certificate of Registration AM1375179, issued to Roderick Lee Mitchell, M.D., be, and it hereby is, revoked. I further order that any pending application of Roderick Lee Mitchell, M.D., to renew or modify the aforesaid registration, be, and it hereby is, denied. This Order is effective February 21, 2014.

Dated: January 15, 2014.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2014–01159 Filed 1–21–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application; Noramco, Inc.

Pursuant to 21 CFR 1301.34 (a), this is notice that on December 3, 2013, Noramco, Inc., 1440 Olympic Drive, Athens, Georgia 30601, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the basic classes of controlled substances:

Drug	Schedule
Phenylacetone (8501)	II
Thebaine (9333)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company plans to import the listed controlled substances to manufacture other controlled substances for distribution to the company's customers.

Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (2007)

In reference to the non-narcotic raw material, any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedules I or II, which fall under the authority of section 1002(a)(2)(B) of the Act (21 U.S.C. 952(a)(2)(B)) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43, and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODW), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than February 21, 2014.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745–46, all applicants for registration to import a basic class of any controlled substances in schedules I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21.U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: January 14, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2014–01157 Filed 1–21–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration; Noramco, Inc.

By Notice dated September 27, 2013, and published in the **Federal Register** on October 25, 2013, 78 FR 64015, Noramco, Inc., 500 Swedes Landing Road, Wilmington, Delaware 19801–4417, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

Drug	Schedule
Phenylacetone (8501)	II
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company plans to import the Opium, raw (9600) and Poppy Straw Concentrate (9670) to manufacture other controlled substances. The company plans to import Tapentadol (9780) in intermediate form for the bulk manufacture of Tapentadol (9780) for distribution to its customers. The company plans to import Phenylacetone (8501) in bulk for the manufacture of a controlled substance.

Comments and requests for hearings on application to import narcotic raw material are not appropriate. 72 FR 3417 (2007)

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Noramco, Inc., to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Noramco, Inc., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: January 14, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2014–01156 Filed 1–21–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances, Notice of Application: Noramco, Inc.

Pursuant to 21 CFR 1301.33(a), this is notice that on August 5, 2013, Noramco, Inc., 500 Swedes Landing Road, Wilmington, Delaware 19801–4417, made application by renewal to the Drug Enforcement Administration (DEA) as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Codeine-N-oxide (9053)	I
Dihydromorphine (9145)	I
Morphine-N-oxide (9307)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Phenylacetone (8501)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Opium, granulated (9640)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Tapentadol (9780)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement

Administration, Office of Diversion Control, Federal Register Representative (ODW), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than March 24, 2014.

Dated: January 14, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2014–01158 Filed 1–21–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–NEW]

Agency Information Collection Activities: Proposed Collection; Comments Requested New Collection: Survey of Juveniles Charged in Adult Criminal Court, 2013

ACTION: 60-Day notice.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until March 24, 2014. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially 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 Tracey Kyckelhahn, Statistician, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street NW., Washington, DC 20531 (phone: 202–353–7381).

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:

(1) *Type of information collection:* New data collection, Survey of Juveniles Charged in Adult Criminal Court (SJCACC) 2013.

(2) *The title of the form/collection:* Survey of Juveniles Charged in Adult Criminal Court or SJCACC, 2013.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form labels are SJCACC–2013, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* State Courts. Abstract: The SJCACC (SJCACC) project will collect accurate and reliable case processing statistics for youth under 18 charged as adults in a nationally representative sample. It will obtain data on demographics of the juvenile, charge information, and method of arrival in adult court (jurisdictional age laws vs. through a transfer mechanism). Adjudication outcomes such as dismissal, guilty plea, and outcome at trial will also be collected, as will sentencing data for those convicted. Fingerprint IDs will be obtained to allow for future recidivism studies and linking with criminal history data. When available, state-wide data will be collected, allowing for some state-by-state comparisons. Juveniles who were transferred to adult court will be oversampled, thus allowing for analyses of the use of different transfer methods. Please see Cost to Federal Government for the financial responsibility associated with the issuance of this report.

(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 information will be collected on a total of 12,000 felony and misdemeanor defendants from a nationally representative sample that includes states and counties. The estimated burden hours will be contingent upon the state and counties electronic storage and transfer capabilities, with data collection occurring in a more timely and expeditious manner among respondents with the capacities to electronically transfer all their case processing information to the data collection agent. It is estimated 13 states will provide unformatted electronic data files and it should take an average of 56 hours per state. For those 12 states that provide a non-uniform extract, it should take an average of 32 hours, and those 3 states providing a uniform extract will spend on average 80 hours. For the remainder of the nation in which electronic data is not readily available, a sample will be drawn. Eighteen PSUs will be chosen, with approximately 10 responding counties in each PSU. It is estimated that 12 PSUs will have 18 counties with electronic data systems, with an average burden of 12 hours. It is estimated that six PSUs will have nine counties requiring sampling for paper or electronic surveys. An estimated 40 surveys will be required for each of these counties, with an average burden of two hours per survey. It is estimated that 22 states will provide summary statistics of their data, which will be used for weighting and validity checks.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated for the SJCACC data collection is a total of 2,310 hours for all of the responding states and counties.

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 15, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–01068 Filed 1–21–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) Docket No. 1644]

Hearing of the Advisory Committee of the Attorney General's Task Force on American Indian/Alaska Native Children Exposed to Violence

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of hearing.

SUMMARY: This is an announcement of the second hearing of the Advisory Committee of the Attorney General's Task Force on American Indian/Alaska Native Children Exposed to Violence (hereafter referred to as the AIAN Advisory Committee). The AIAN Advisory Committee is chartered to provide the Attorney General with valuable advice in the areas of American Indian/Alaska Native children's exposure to violence for the purpose of addressing the epidemic levels of exposure to violence faced by tribal youth. Based on the testimony at four public hearings, on comprehensive research, and on extensive input from experts, advocates, and impacted families and tribal communities nationwide, the AIAN Advisory Committee will issue a final report to the Attorney General presenting its findings and comprehensive policy recommendations in the fall of 2014.

DATES: This second hearing will take place on Tuesday, February 11, 2014 (full-day session), beginning at 8:30 a.m. A post-hearing debrief (full-day session) will take place on Wednesday, February 12, 2014, beginning at 9:00 a.m.

ADDRESSES: The hearing and post-hearing debrief will take place at the Salt River Talking Stick Hotel, 9800 E. Indian Bend Rd., Scottsdale, AZ 85256 (866) 877–9897.

FOR FURTHER INFORMATION CONTACT: Jim Antal, AIAN Advisory Committee Designated Federal Officer (DFO) and Deputy Associate Administrator, Youth Development, Prevention and Safety Division, Office of Juvenile Justice & Delinquency Prevention, Office of Justice Programs, 810 7th Street NW., Washington, DC 20531. Phone: (202) 514–1289 [note: This is not a toll-free number]; email: *james.antal@usdoj.gov.*

SUPPLEMENTARY INFORMATION: This hearing is being convened to provide information to the AIAN Advisory Committee about the issue of American Indian/Alaska Native children's exposure to violence. The focus for this second hearing will be on the juvenile systems' (Tribal, State, Federal) response to American Indian/Alaska Native children exposed to violence.

The final agenda is subject to adjustment, but it is anticipated that on February 11, 2014, there will be a morning and afternoon session, with a break for lunch. The morning session will likely include welcoming remarks and introductions, and panel presentations from invited guests on topics focused on the juvenile systems' (Tribal, State, Federal) response to American Indian/Alaska Native children exposed to violence. The afternoon session will likely include presentations from witnesses invited to brief the AIAN Advisory Committee on measuring and describing American Indian/Alaska Native children's exposure to violence and existing programs that attempt to address this issue.

Scheduled oral public testimony will likely be offered at specific times during both the morning and afternoon hearing sessions. Additionally, oral public testimony may occur during the open microphone session, which will likely occur just prior to the conclusion of the hearing. While on-site registration will also be provided, those wishing to provide oral public testimony are encouraged to register through the registration link at: *www.justice.gov/defendingchildhood* in advance of the meeting.

While not required, those wishing to attend the February 11th hearing are also encouraged to register through the registration link at: *www.justice.gov/defendingchildhood* in advance of the hearing.

Those wishing to provide written testimony for this hearing should send their written testimony to *testimony@tlpi.org.* Written testimony will also be accepted onsite February 11, 2014 at the registration desk.

On February 12th, there will be a post-hearing debrief session that will include a review of material presented during the previous day and planning for subsequent hearings. While both meetings are open to the public, the debriefing session will not have an opportunity for public comment.

Anyone requiring special accommodations should notify Mr. Antal at *james.antal@usdoj.gov* at least seven (7) days in advance of the meeting.

Jim Antal,

Deputy Associate Administrator, Youth Development, Prevention and Safety, Division and AI/AN Advisory Committee Designated Federal Officer, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs.

[FR Doc. 2014–01139 Filed 1–21–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) Docket No. 1645]

Meeting of the Federal Advisory Committee on Juvenile Justice

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of webinar meeting.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) announces a webinar meeting of the Federal Advisory Committee on Juvenile Justice (FACJJ). This meeting is a continuation of the meeting that began on Monday, December 9, 2013. Due to inclement weather, the second day of the FACJJ meeting scheduled on Tuesday, December 10, 2013, had to be cancelled.

Dates and Location: The meeting will take place online, as a webinar, on Friday, February 7, 2014, from 2 to 5 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Kathi Grasso, Designated Federal Official, OJJDP, *Kathi.Grasso@usdoj.gov,* or (202) 616–7567. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Federal Advisory Committee on Juvenile Justice (FACJJ), established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App.2), will meet to carry out its advisory functions under Section 223(f)(2)(C–E) of the Juvenile Justice and Delinquency Prevention Act of 2002. The FACJJ is composed of representatives from the states and territories. FACJJ member duties include: reviewing Federal policies regarding juvenile justice and delinquency prevention; advising the OJJDP Administrator with respect to particular functions and aspects of OJJDP; and advising the President and Congress with regard to State perspectives on the operation of OJJDP and Federal legislation pertaining to juvenile justice and delinquency prevention. More information on the FACJJ may be found at *www.facjj.org.*

Meeting Agenda: The agenda will include: (a) Welcome and introductions; (b) Remarks from the OJJDP Administrator; (c) Presentations and facilitated discussion with FACJJ members on NAS Report: *Reforming Juvenile Justice: A Developmental Approach,* as well as *The Supportive School Discipline Initiative* of the U.S. Departments of Justice and Education; (d) FACJJ's future role/activities; and (e) miscellaneous FAC business matters.s

To participate in or view the webinar meeting, members of the FACJJ and the public must pre-register online. Members and interested persons must link to the webinar registration portal through *www.facjj.org* no later than Monday, February 3, 2014. Upon registration, information will be sent to you at the email address you provide to enable you to connect to the webinar. Should problems arise with webinar

registration, please call Michelle Duhart-Tonge at 703–225–2103 [This is not a toll-free telephone number.] **Note:** Members of the public will be able to listen to and view the webinar as observers, but will not be able to actively participate during the webinar.

An on-site room is available for members of the public interested in viewing the webinar in person. If members of the public wish to view the webinar in person, they must notify Kathi Grasso by email message to *Kathi.grasso@usdoj.gov,* no later than Monday, February 3, 2014.

Please note that FACJJ members will not be physically present in Washington, DC for the webinar. They will participate in the webinar from their respective home jurisdictions.

Written Comments: Interested parties may submit written comments in advance to Kathi Grasso, Designated Federal Official, by email message to *Kathi.Grasso@usdoj.gov,* no later than Monday, February 3, 2013. Alternatively, fax your comments to 202–307–2819 and contact Joyce Mosso Stokes at 202–305–4445 to ensure that they are received. [These are not toll-free numbers.]

Robert L. Listenbee,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 2014–01136 Filed 1–21–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Job Corps Enrollee Allotment Determination

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Job Corps Enrollee Allotment Determination,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*

DATES: Submit comments on or before February 21, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201306-1205-005* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to maintain PRA authorization for the Job Corps Enrollee Allotment Determination information collection. More specifically, a Job Corps enrollee may elect to have a portion of his or her readjustment allowance/transition payment sent to a dependent on a bi-weekly basis. Form ETA–658 provides the information necessary to administer these allotments.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0030.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on January 31, 2014. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on August 14, 2013 (78 FR 49548).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0030. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Job Corps Enrollee Allotment Determination.

OMB Control Number: 1205–0030.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 1,100.

Total Estimated Number of Responses: 1,100.

Total Estimated Annual Burden Hours: 55.

Total Estimated Annual Other Costs Burden: $0.

Dated: January 16, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–01171 Filed 1–21–14; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Job Corps Placement and Assistance Record

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Job Corps Placement and Assistance Record,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*

DATES: Submit comments on or before February 21, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201306-1205-006* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, NW., Washington, DC 20210, email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to maintain PRA authorization for the Job Corps Placement and Assistance Record, Form ETA–678, which the ETA uses to obtain information about a student's training and subsequent job placement, further education, or military service. The ETA also uses the form to record the name of the placement provider agency. In addition, the ETA uses information collected through the form to evaluate overall program effectiveness. Form ETA–678 is the only form that documents a student's post-center status. Job Corps centers and placement specialists prepare the form for each student separating from a Job Corps center.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0035.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on January 31, 2014. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on August 7, 2013 (78 FR 48197).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0035. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Job Corps Placement and Assistance Record.

OMB Control Number: 1205–0035.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 34,000.

Total Estimated Number of Responses: 34,000.

Total Estimated Annual Burden Hours: 4,210.

Total Estimated Annual Other Costs Burden: $0.

Dated: January 15, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–01140 Filed 1–21–14; 8:45 am]

BILLING CODE 4510–FT–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

Notice: (14–003)

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Frances Teel, Mail Code JF000, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection

instrument(s) and instructions should be directed to Frances Teel, NASA PRA Clearance Officer, NASA Headquarters, 300 E Street SW., Mail Code JF000, Washington, DC 20546, (202) 358–2225.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration (NASA) Office of Diversity and Equal Opportunity and the Office of Procurement, in accordance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, requires grant awardees to submit an assurance of non-discrimination (NASA Form1206) as part of their initial grant application package. The requirement for assurance of non-discrimination compliance associated with federally assisted programs is long standing, derives from civil rights implementing regulations, and extends to the grant recipient's sub-grantees, contractors, successors, transferees, and assignees. Grant selectees are required to submit compliance information triennially when their award period exceeds 36 consecutive months. This information collection will also be used to enable NASA to conduct post-award civil rights compliance reviews.

II. Method of Collection

Electronic.

III. Data

Title: NASA Assurance of Civil Rights Compliance.

OMB Number: 2700–0148.

Type of review: Reinstatement of an existing information collection.

Affected Public: Business, or other for-profit, or not-for-profit.

Estimated Number of Respondents: 800.

Estimated Annual Responses: 250.

Estimated Time per Response: 4 hours.

Estimated Total Annual Burden Hours: 16.6.

Estimated Total Annual Cost: $120.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

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

Frances Teel,

NASA PRA Clearance Officer.

[FR Doc. 2014–01113 Filed 1–21–14; 8:45 am]

BILLING CODE 7510–13–P

OFFICE OF NATIONAL DRUG CONTROL POLICY

Designation of Thirteen Counties as High Intensity Drug Trafficking Areas

AGENCY: Office of National Drug Control Policy.

ACTION: Notice of High Intensity Drug Trafficking Areas (HIDTA) Designations.

SUMMARY: The Director of the Office of National Drug Control Policy designated thirteen additional counties as High Intensity Drug Trafficking Areas pursuant to 21 U.S.C. 1706. The new counties are (1) Bradley County in Tennessee, Dickenson County in Virginia, and Wyoming and Raleigh Counties in West Virginia as part of the Appalachia HIDTA; (2) Rockingham County in North Carolina, and Florence and Horry Counties in South Carolina as part of the Atlanta-Carolinas HIDTA (formerly known as ''Atlanta HIDTA''); (3) Forrest County in Mississippi as part of the Gulf Coast HIDTA; (4) Williams County in North Dakota as part of the Midwest HIDTA; (5) Humboldt County in California as part of the Northern California HIDTA; and (6) Cecil and Frederick Counties in Maryland and Roanoke County in Virginia as part of the Washington/Baltimore HIDTA.

FOR FURTHER INFORMATION CONTACT: Questions regarding this notice should be directed to Michael K. Gottlieb, National HIDTA Program Director, Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20503; (202) 395–4868.

Dated: January 15, 2014.

Daniel S. Rader,

Deputy General Counsel.

[FR Doc. 2014–01089 Filed 1–21–14; 8:45 am]

BILLING CODE 3280–F4–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act Meeting

DATES: Weeks of January 20, 27, February 3, 10, 17, 24, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of January 20, 2014

There are no meetings scheduled for the week of January 20, 2014.

Week of January 27, 2014—Tentative

Wednesday, January 29, 2014

9:30 a.m. Briefing on Equal Employment Opportunity and Civil Rights Outreach (Public Meeting) (Contact: Larniece McKoy Moore, 301–415–1942)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of February 3, 2014—Tentative

There are no meetings scheduled for the week of February 3, 2014.

Week of February 10, 2014—Tentative

There are no meetings scheduled for the week of February 10, 2014.

Week of February 17, 2014—Tentative

Wednesday, February 19, 2014

9:30 a.m. Briefing on NRC International Activities (Closed—Ex. 1 & 9)

1:30 p.m. Briefing on Security Issues (Closed—Ex. 3)

Thursday, February 20, 2014

9:30 a.m. Briefing on Threat Environment Assessment (Closed—Ex. 1)

Week of February 24, 2014—Tentative

There are no meetings scheduled for the week of February 24, 2014.

* * * * *

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you

need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Darlene.Wright@nrc.gov.*

Dated: January 16, 2014.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–01289 Filed 1–17–14; 4:15 pm]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30858; File No. 812–14218]

ALPS Series Trust, et al.; Notice of Application

January 15, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act, and under section 6(c) of the Act for an exemption from rule 12d1–2(a) under the Act.

SUMMARY: *Summary of the Application:* The requested order would (a) permit certain registered open-end management investment companies that operate as ''funds of funds'' to acquire shares of certain registered open-end management investment companies and unit investment trusts (''UITs'') that are within and outside the same group of investment companies as the acquiring investment companies, and (b) permit funds of funds relying on rule 12d1–2 under the Act to invest in certain financial instruments.

Applicants: ALPS Series Trust (''Trust''), Brinker Capital, Inc. (''Fund of Funds Adviser''), and ALPS Distributors, Inc. (the ''Distributor'').

DATES: *Filing Dates:* The application was filed on September 27, 2013 and was amended on January 3, 2014.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 10, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants: ALPS Series Trust, 1290 Broadway, Suite 1100, Denver, CO 80203; Brinker Capital, Inc., 1055 Westlakes Drive, Suite 250, Berwyn, PA; ALPS Distributors, Inc., 1290 Broadway, Suite 1100, Denver, CO 80203.

FOR FURTHER INFORMATION CONTACT: Jason M. Williams, Senior Counsel, at (202) 551–6817, or Daniele Marchesani, Branch Chief, at (202) 551–6817 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust, a Delaware statutory trust, is registered under the Act as an open-end management investment company and offers shares of multiple series, each of which pursues different investment objectives and principal investment strategies.[1]

2. Brinker Capital, Inc., a Delaware corporation, is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the ''Advisers Act''). A Fund of Funds Adviser will serve as investment adviser to the Funds. Any other Fund of Funds Adviser will also be registered as an investment adviser under the Advisers Act.

3. The Distributor, a Colorado corporation, is registered as a broker-dealer under the Securities Exchange Act of 1934 (the ''Exchange Act''). The Distributor, or another distributor, will serve as principal underwriter and distributor for the shares of the Funds.

4. Applicants request an order to permit (a) a Fund that operates as a ''fund of funds'' (each a ''Fund of Funds'') to acquire shares of (i) registered open-end management investment companies that are not part of the same ''group of investment companies,'' within the meaning of section 12(d)(1)(G)(ii) of the Act, as the Fund of Funds (''Unaffiliated Investment Companies'') and UITs that are not part of the same group of investment companies as the Fund of Funds (''Unaffiliated Trusts,'' and together with the Unaffiliated Investment Companies, ''Unaffiliated Funds'')[2] or (ii) registered open-end management companies or UITs that are part of the same ''group of investment companies,'' within the meaning of section 12(d)(1)(G) (ii) of the Act, as the Fund of Funds (collectively, ''Affiliated Funds,'' and together with the Unaffiliated Funds, ''Underlying Funds'')[3] and (b) each Underlying Fund, the Distributor or any principal underwriter for the Underlying Fund, and any broker or dealer registered

[1] Applicants request that the order apply to each existing and future series of the Trust and to each existing and future registered open-end management investment company or series thereof that is advised by the Fund of Funds Adviser or any entity controlling, controlled by or under common control with the Fund of Funds Adviser (any such entity is included in the term ''Fund of Funds Adviser'') and is part of the same ''group of investment companies'' (as defined in section 12(d)(1)(G)(ii) of the Act), as the Trust (each, a ''Fund'' and collectively, ''Funds.''). All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

[2] Certain of the Unaffiliated Funds may be registered under the Act as either UITs or open-end management investment companies and have received exemptive relief to permit their shares to be listed and traded on a national securities exchange at negotiated prices (''ETFs'').

[3] Certain of the Underlying Funds currently pursue, or may in the future pursue, their investment objectives through a master-feeder arrangement in reliance on section 12(d)(1)(E) of the Act. In accordance with condition 11, a Fund of Funds may not invest in an Underlying Fund that operates as a feeder fund unless the feeder fund is part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as its corresponding master fund or the Fund of Funds. If a Fund of Funds invests in an Affiliated Fund that operates as a feeder fund and the corresponding master fund is not within the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Fund of Funds and Affiliated Fund, the master fund would be an Unaffiliated Fund for purposes of the application and its conditions.

under the Exchange Act (''Broker'') to sell shares of the Underlying Fund to the Fund of Funds. Applicants also request an order under sections 6(c) and 17(b) of the Act to exempt applicants from section 17(a) of the Act to the extent necessary to permit Underlying Funds to sell their shares to Funds of Funds and redeem their shares from Funds of Funds.

5. Applicants also request an exemption under section 6(c) of the Act from rule 12d1–2 under the Act to permit any existing or future Fund that relies on section 12(d)(1)(G) of the Act (''Same Group Investing Fund'') and that otherwise complies with rule 12d1–2 under the Act to also invest, to the extent consistent with its investment objective, policies, strategies, and limitations, in financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'').

Applicants' Legal Analysis

A. Investments in Underlying Funds—Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act, in relevant part, prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, and any Broker from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's total outstanding voting stock, or if the sale will cause more than 10% of the acquired company's total outstanding voting stock to be owned by investment companies generally.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) of the Act if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) of the Act to permit a Fund of Funds to acquire shares of the Underlying Funds in excess of the limits in section 12(d)(1)(A) of the Act, and an Underlying Fund, the Distributor or any principal underwriter for an Underlying Fund, and any Broker to sell shares of an Underlying Fund to a Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.

3. Applicants state that the terms and conditions of the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A) and (B) of the Act, which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants believe that the proposed arrangement will not result in the exercise of undue influence by the Fund of Funds or a Fund of Funds Affiliate over the Unaffiliated Funds.[4] To limit the control that the Fund of Funds may have over an Unaffiliated Fund, applicants propose a condition prohibiting the Fund of Funds Adviser, any person controlling, controlled by, or under common control with the Fund of Funds Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Fund of Funds Adviser or any person controlling, controlled by, or under common control with the Fund of Funds Adviser (the ''Advisory Group'') from controlling (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any other investment adviser within the meaning of section 2(a)(20)(B) of the Act to a Fund of Funds (''Subadviser''), any person controlling, controlled by, or under common control with the Subadviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Subadviser or any person controlling, controlled by, or under common control with the Subadviser (the ''Subadvisory Group''). Applicants propose other conditions to limit the potential for undue influence over the Unaffiliated Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, trustee, advisory board member, investment adviser, Subadviser, or employee of the Fund of Funds, or a person of which any such officer, director, trustee, member of an advisory board, investment adviser, Subadviser, or employee is an affiliated person. An Underwriting Affiliate does not include any person whose relationship to an Unaffiliated Fund is covered by section 10(f) of the Act.

5. To further ensure that an Unaffiliated Investment Company understands the implications of an investment by a Fund of Funds under the requested order, prior to a Fund of Funds' investment in the shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute an agreement stating, without limitation, that their respective board of directors or trustees (for any entity, the ''Board'') and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (''Participation Agreement''). Applicants note that an Unaffiliated Investment Company (other than an ETF whose shares are purchased by a Fund of Funds in the secondary market) will retain its right at all times to reject any investment by a Fund of Funds.[5]

6. Applicants state that they do not believe that the proposed arrangement will involve excessive layering of fees. The Board of each Fund of Funds, including a majority of the trustees who are not ''interested persons'' (within the meaning of section 2(a)(19) of the Act) (''Independent Trustees''), will find that the advisory fees charged under investment advisory or management contract(s) are based on services provided that will be in addition to, rather than duplicative of, the services provided under such advisory

[4] A ''Fund of Funds Affiliate'' is the Fund of Funds Adviser, any Subadviser (as defined below), promoter, or principal underwriter of a Fund of Funds, as well as any person controlling, controlled by, or under common control with any of those entities. An ''Unaffiliated Fund Affiliate'' is an investment adviser, sponsor, promoter, or principal underwriter of an Unaffiliated Fund, as well as any person controlling, controlled by, or under common control with any of those entities.

[5] An Unaffiliated Investment Company, including an ETF, would retain its right to reject any initial investment by a Fund of Funds in excess of the limit in section 12(d)(1)(A)(i) of the Act by declining to execute the Participation Agreement with the Fund of Funds.

contract(s) of any Underlying Fund in which the Fund of Funds may invest. In addition, the Fund of Funds Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b–1 under the Act) received from an Unaffiliated Fund by the Fund of Funds Adviser or an affiliated person of the Fund of Funds Adviser, other than any advisory fees paid to the Adviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any sales charges and/or service fees charged with respect to shares of the Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in Rule 2830 of the Conduct Rules of the NASD (''NASD Conduct Rule 2830'').[6]

7. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Underlying Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except in certain circumstances identified in condition 11 below.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that a Fund of Funds and the Affiliated Funds managed by the same Adviser might be deemed to be under common control of the Fund of Funds Adviser and therefore affiliated persons of one another. Applicants also state that the Fund of Funds and the Unaffiliated Funds might be deemed to be affiliated persons of one another if the Fund of Funds acquires 5% or more of an Unaffiliated Fund's outstanding voting securities. In light of these and other possible affiliations, section 17(a) of the Act could prevent an Underlying Fund from selling shares to and redeeming shares from a Fund of Funds.

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) of the Act if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the Act.[7] Applicants state that the terms of the transactions are reasonable and fair and do not involve overreaching. Applicants state that the terms upon which an Underlying Fund will sell its shares to or purchase its shares from a Fund of Funds will be based on the net asset value of the Underlying Fund.[8] Applicants state that the proposed transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act.

C. Other Investments by Same Group Investing Funds

1. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) of the Act will not apply to securities of an acquired company purchased by an acquiring company if: (i) the acquiring company and acquired company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Exchange Act or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered unit investment trusts in reliance on sections 12(d)(1)(F) or (G) of the Act.

2. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered unit investment trust that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (1) securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on sections 12(d)(1)(A) or 12(d)(1)(F) of the Act; (2) securities (other than securities issued by an investment company); and (3) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2 under the Act, ''securities'' means any security as defined in section 2(a)(36) of the Act.

3. Applicants state that the proposed arrangement would comply with the provisions of rule 12d1–2 under the Act, but for the fact that a Same Group Investing Fund may invest a portion of its assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) under the Act to allow the Same Group Investing Funds to invest in Other Investments. Applicants assert that permitting Same Group Investing Funds to invest in Other Investments as described in the application would not raise any of the

[6] Any references to NASD Conduct Rule 2830 include any successor or replacement rule of FINRA to NASD Conduct Rule 2830.

[7] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by a Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds may be prohibited by section 17(e)(1) of the Act. The Participation Agreement also will include this acknowledgement.

[8] To the extent purchases and sales of shares of an ETF occur in the secondary market (and not through principal transactions directly between a Fund of Funds and an ETF), relief from section 17(a) of the Act would not be necessary. The requested relief is intended to cover, however, transactions directly between ETFs and a Fund of Funds. Applicants are not seeking relief from section 17(a) of the Act for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because the investment adviser to the ETF or an entity controlling, controlled by, or under common control with the investment adviser to the ETF, also is an investment adviser to the Fund of Funds.

concerns that the requirements of section 12(d)(1) of the Act were designed to address.

4. Consistent with its fiduciary obligations under the Act, the Board of each Same Group Investing Fund will review the advisory fees charged by the Same Group Investing Fund's investment adviser to ensure that they are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Same Group Investing Fund may invest.

Applicants' Conditions

Investments by Funds of Funds in Underlying Funds

Applicants agree that the relief to permit Funds of Funds to invest in Underlying Funds shall be subject to the following conditions:

1. The members of an Advisory Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The members of a Subadvisory Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an Unaffiliated Fund, an Advisory Group or a Subadvisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of the Unaffiliated Fund, then the Advisory Group or the Subadvisory Group will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares. This condition will not apply to a Subadvisory Group with respect to an Unaffiliated Fund for which the Subadviser or a person controlling, controlled by, or under common control with the Subadviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act (in the case of an Unaffiliated Investment Company) or as the sponsor (in the case of an Unaffiliated Trust).

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in shares of an Unaffiliated Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Fund or an Unaffiliated Fund Affiliate.

3. The Board of each Fund of Funds, including a majority of the Independent Trustees, will adopt procedures reasonably designed to ensure that its Fund of Funds Adviser and any Subadviser(s) to the Fund of Funds are conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or Fund of Funds Affiliate from an Unaffiliated Fund or an Unaffiliated Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, the Board of the Unaffiliated Investment Company, including a majority of the Independent Trustees, will determine that any consideration paid by the Unaffiliated Investment Company to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Investment Company; (b) is within the range of consideration that the Unaffiliated Investment Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Investment Company and its investment adviser(s) or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Unaffiliated Investment Company, including a majority of the Independent Trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Investment Company in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of the Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Investment Company will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Unaffiliated Investment Company. The Board of the Unaffiliated Investment Company will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Investment Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Investment Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Unaffiliated Investment Company will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. Each Unaffiliated Investment Company shall maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and shall maintain and preserve for a period not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth: (a) The party from whom the securities were acquired, (b) the identity of the underwriting syndicate's members, (c) the terms of the purchase, and (d) the information or materials upon which the determinations of the Board of the Unaffiliated Investment Company were made.

8. Prior to its investment in shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, a Fund of Funds will notify the Unaffiliated

Investment Company of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Investment Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Investment Company of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Unaffiliated Investment Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the Act, the Board of each Fund of Funds, including a majority of the Independent Trustees, shall find that the advisory fees charged under such advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding and the basis upon which the finding was made will be recorded fully in the minute books of the appropriate Fund of Funds.

10. A Fund of Funds Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b-1 under the Act) received from an Unaffiliated Fund by the Fund of Funds Adviser, or an affiliated person of the Fund of Funds Adviser, other than any advisory fees paid to the Fund of Funds Adviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Subadviser will waive fees otherwise payable to the Subadviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Subadviser, or an affiliated person of the Subadviser, from an Unaffiliated Fund, other than any advisory fees paid to the Subadviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Subadviser. In the event that a Subadviser waives fees, the benefit of the waiver will be passed through to the applicable Fund of Funds.

11. No Underlying Fund will acquire securities of any other investment company or company relying on sections 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Acquires such securities in compliance with section 12(d)(1)(E) of the Act and either is an Affiliated Fund or is in the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as its corresponding master fund; (b) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (c) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to (i) acquire securities of one or more investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

12. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in NASD Conduct Rule 2830.

Other Investments by Same Group Investing Funds

Applicants agree that the relief to permit Same Group Investing Funds to invest in Other Investments shall be subject to the following condition:

13. Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2) to the extent that it restricts any Same Group Investing Fund from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–01135 Filed 1–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30860; File No. 812–14228]

Multi-Strategy Growth & Income Fund and RJL Capital Management, LLC; Notice of Application

January 15, 2014

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(c) and 18(i) of the Act, under sections 6(c) and 23(c)(3) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares and to impose asset-based distribution fees and early withdrawal charges (''EWCs'').

Applicants: Multi-Strategy Growth & Income Fund (''Initial Fund'') and RJL Capital Management, LLC (''Adviser'').

DATES: *Filing Dates:* The application was filed on October 30, 2013, and amended on December 31, 2013.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 10, 2014 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Multi-Strategy Growth & Income Fund, 80 Arkay Drive, Hauppauge, NY 11788, and RJL Capital Management, LLC, 13520 Evening Creek Drive North, Suite 300, San Diego, California 92128.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, at (202) 551–6819, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Initial Fund is a recently-formed Delaware statutory trust that is

registered under the Act as a non-diversified, closed-end management investment company. The Initial Fund's investment objective is to seek returns from capital appreciation and income with an emphasis on income generation. Applicants represent that the Initial Fund does not invest in securities of funds commonly known as hedge funds, which applicants state are typically privately placed with investors without registration with the Commission, employ leverage and hedging strategies as well as pay their managers performance fees on gains.

2. The Adviser is a California limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser serves as investment adviser to the Initial Fund.

3. The Applicants seek an order to permit the Initial Fund to issue multiple classes of shares, each having its own fee and expense structure, and to impose asset-based distribution fees and EWCs.

4. Applicants request that the order also apply to any continuously-offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which the Adviser or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser and which operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (''Exchange Act'') (together with the Initial Fund, the ''Funds'').[2]

5. The Initial Fund is currently making a continuous public offering of its common shares following the effectiveness of its registration statement and its subsequent amendment to its registration statement for the purpose of registering an additional amount of shares. Applicants state that additional offerings by any Fund relying on the order may be on a private placement or public offering basis. Shares of the Funds will not be listed on any securities exchange, nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their shares.

6. If the requested relief is granted, the Initial Fund intends to redesignate its common shares as ''Class A Shares'' and to continuously offer two additional classes of shares (''Class I Shares'' and ''Class C Shares''). Because of the different distribution fees, services and any other class expenses that may be attributable to the Class A Shares, Class I and Class C Shares, the net income attributable to, and the dividends payable on, each class of shares may differ from each other.

7. Applicants state that, from time to time, the Initial Fund may create additional classes of shares, the terms of which may differ from the Class A, Class I and Class C Shares in the following respects: (i) the amount of fees permitted by different distribution plans or different service fee arrangements; (ii) voting rights with respect to a distribution plan of a class; (iii) different class designations; (iv) the impact of any class expenses directly attributable to a particular class of shares allocated on a class basis as described in this application; (v) any differences in dividends and net asset value resulting from differences in fees under a distribution plan or in class expenses; (vi) any EWC or other sales load structure; and (vii) exchange or conversion privileges of the classes as permitted under the Act.

8. Applicants state that the Initial Fund has adopted a fundamental policy to repurchase a specified percentage of its shares (no less than 5%) at net asset value on a quarterly basis. Such repurchase offers will be conducted pursuant to rule 23c–3 under the Act. Each of the other Funds will likewise adopt fundamental investment policies in compliance with rule 23c–3 and make quarterly repurchase offers to its shareholders or provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act.[3] Any repurchase offers made by the Funds will be made to all holders of shares of each such Fund.

9. Applicants represent that any asset-based service and distribution fees for each class of shares will comply with the provisions of NASD Rule 2830(d) (''NASD Sales Charge Rule'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, each Fund will disclose its expenses in shareholder reports, and disclose any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.[5] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[6]

10. Each of the Funds will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's shares comply with such requirements in connection with the distribution of such Fund's shares.

11. Each Fund will allocate all expenses incurred by it among the various classes of shares based on the net assets of the Fund attributable to each class, except that the net asset value and expenses of each class will reflect distribution fees, service fees, and any other incremental expenses of that class. Expenses of the Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class. Applicants state that each Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

12. Applicants state that each Fund may impose an EWC on shares submitted for repurchase that have been held less than a specified period and may waive the EWC for certain categories of shareholders or transactions to be established from time

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

[3] Applicants submit that rule 23c–3 and Regulation M under the Exchange Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to Rule 415 under the Securities Act of 1933.

[4] Any reference to the NASD Sales Charge Rule includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

[5] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[6] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). See also Rules 12d1–1, et seq. of the Act.

to time. Applicants state that each of the Funds will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act as if the Funds were open-end investment companies.

13. Each Fund operating as an interval fund pursuant to rule 23c–3 under the Act may offer its shareholders an exchange feature under which the shareholders of the Fund may, in connection with the Fund's periodic repurchase offers, exchange their shares of the Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c–3 under the Act and continuously offer their shares at net asset value, that are in the Fund's group of investment companies (collectively, ''Other Funds''). Shares of a Fund operating pursuant to rule 23c–3 that are exchanged for shares of Other Funds will be included as part of the amount of the repurchase offer amount for such Fund as specified in rule 23c–3 under the Act. Any exchange option will comply with rule 11a–3 under the Act, as if the Fund were an open-end investment company subject to rule 11a–3. In complying with rule 11a–3, each Fund will treat an EWC as if it were a contingent deferred sales load (''CDSL'').

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

2. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

4. Applicants submit that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its shares and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

Early Withdrawal Charges

1. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company will purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the Act permits a registered closed-end investment company (an ''interval fund'') to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the Act provides that an interval fund may deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c–3 to the extent necessary for the Funds to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–10 permits open-end investment companies to impose CDSLs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Funds will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N–1A concerning CDSLs. Applicants further state that the Funds will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act.

Asset-based Distribution Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Fund to impose asset-based distribution fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based distribution fees.

For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' institution of asset-based distribution fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the NASD Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–01138 Filed 1–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30859; File No. 812–14184]

Total Income+ Real Estate Fund and Bluerock Fund Advisor LLC; Notice of Application

January 15, 2014

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(c) and 18(i) of the Act, under sections 6(c) and 23(c)(3) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares and to impose asset-based distribution fees and early withdrawal charges (''EWCs'').

Applicants: Total Income+ Real Estate Fund (''Initial Fund'') and Bluerock Fund Advisor LLC (''Adviser'').

DATES: *Filing Dates:* The application was filed on July 25, 2013, and amended on October 3, 2013 and December 30, 2013.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail.

Hearing requests should be received by the Commission by 5:30 p.m. on February 10, 2014 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants: Total Income+ Real Estate Fund, 80 Arkay Drive, Hauppauge, NY 11788, and Bluerock Fund Advisor LLC, 712 Fifth Avenue, 9th Floor, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, at (202) 551–6819, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Initial Fund is a recently-formed Delaware statutory trust that is registered under the Act as a non-diversified, closed-end management investment company. The Initial Fund's primary investment objective is to generate current income while secondarily seeking long-term capital appreciation with low to moderate volatility and low correlation to the broader markets. Applicants represent that the Initial Fund will not invest more than 10% of its assets in 'hedge funds' (i.e., investment funds that would be investment companies but for the exemptions under rule 3(c)(1) or 3(c)(7) under the Act).

2. The Adviser is a Delaware limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser serves as investment adviser to the Initial Fund.

3. The Applicants seek an order to permit the Initial Fund to issue multiple classes of shares, each having its own fee and expense structure, and to impose asset-based distribution fees and EWCs.

4. Applicants request that the order also apply to any continuously-offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which the Adviser or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser and which operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (''Exchange Act'') (together with the Initial Fund, the ''Funds'').[2]

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

5. The Initial Fund is currently making a continuous public offering of its common shares following the effectiveness of its registration statement. Applicants state that additional offerings by any Fund relying on the order may be on a private placement or public offering basis. Shares of the Funds will not be listed on any securities exchange, nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their shares.

6. If the requested relief is granted, the Initial Fund intends to redesignate its common shares as ''Class A Shares'' and to continuously offer two additional classes of shares (''Class I Shares'' and ''Class C Shares''). Because of the different distribution fees, services and any other class expenses that may be attributable to the Class A Shares, Class I and Class C Shares, the net income attributable to, and the dividends payable on, each class of shares may differ from each other.

7. Applicants state that, from time to time, the Initial Fund may create additional classes of shares, the terms of which may differ from the Class A, Class I and Class C Shares in the following respects: (i) the amount of fees permitted by different distribution plans or different service fee arrangements; (ii) voting rights with respect to a distribution plan of a class; (iii) different class designations; (iv) the impact of any class expenses directly attributable to a particular class of shares allocated on a class basis as described in this application; (v) any differences in dividends and net asset value resulting from differences in fees under a distribution plan or in class expenses; (vi) any EWC or other sales load structure; and (vii) exchange or conversion privileges of the classes as permitted under the Act.

8. Applicants state that the Initial Fund has adopted a fundamental policy to repurchase a specified percentage of its shares (no less than 5%) at net asset value on a quarterly basis. Such repurchase offers will be conducted pursuant to rule 23c–3 under the Act. Each of the other Funds will likewise adopt fundamental investment policies in compliance with rule 23c–3 and make quarterly repurchase offers to its shareholders or provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act.[3] Any repurchase offers made by the Funds will be made to all holders of shares of each such Fund.

9. Applicants represent that any asset-based service and distribution fees for each class of shares will comply with the provisions of NASD Rule 2830(d) (''NASD Sales Charge Rule'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, each Fund will disclose its expenses in shareholder reports, and disclose any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.[5] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[6]

10. Each of the Funds will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's shares comply with such requirements in connection with the distribution of such Fund's shares.

11. Each Fund will allocate all expenses incurred by it among the various classes of shares based on the net assets of the Fund attributable to each class, except that the net asset value and expenses of each class will reflect distribution fees, service fees, and any other incremental expenses of that class. Expenses of the Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class. Applicants state that each Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

12. Applicants state that each Fund may impose an EWC on shares submitted for repurchase that have been held less than a specified period and may waive the EWC for certain categories of shareholders or transactions to be established from time to time. Applicants state that each of the Funds will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act as if the Funds were open-end investment companies.

13. Each Fund operating as an interval fund pursuant to rule 23c–3 under the Act may offer its shareholders an exchange feature under which the shareholders of the Fund may, in connection with the Fund's periodic repurchase offers, exchange their shares of the Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c–3 under the Act and continuously offer their shares at net asset value, that are in the Fund's group of investment companies (collectively, ''Other Funds''). Shares of a Fund operating pursuant to rule 23c–3 that are exchanged for shares of Other Funds will be included as part of the amount of the repurchase offer amount for such Fund as specified in rule 23c–3 under the Act. Any exchange option will comply with rule 11a–3 under the Act, as if the Fund were an open-end investment company subject to rule 11a–3. In complying with rule 11a–3, each Fund will treat an EWC as if it were a contingent deferred sales load (''CDSL'').

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

2. Section 18(i) of the Act provides that each share of stock issued by a registered management investment

[3] Applicants submit that rule 23c–3 and Regulation M under the Exchange Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to Rule 415 under the Securities Act of 1933.

[4] Any reference to the NASD Sales Charge Rule includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

[5] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[6] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). See also Rules 12d1–1, et seq. of the Act.

company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

4. Applicants submit that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its shares and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

Early Withdrawal Charges

1. Section 23(c) of the Act provides, in relevant part, that no registered closed–end investment company will purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the Act permits a registered closed-end investment company (an ''interval fund'') to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the Act provides that an interval fund may deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c–3 to the extent necessary for the Funds to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–10 permits open-end investment companies to impose CDSLs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Funds will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N–1A concerning CDSLs. Applicants further state that the Funds will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act.

Asset-Based Distribution Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Fund to impose asset-based distribution fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based distribution fees.

For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' institution of asset-based distribution fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed–end management investment companies, and will comply with the NASD Sales Charge Rule, as amended from time to time, as if that rule applied to all closed–end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–01137 Filed 1–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, January 23, 2014 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

institution and settlement of injunctive actions;

institution and settlement of administrative proceedings;

an adjudicatory matter; and

other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: January 16, 2014.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2014–01257 Filed 1–17–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71303; File No. SR–BATS–2014–001]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

January 15, 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 January 2, 2014, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, at the Commission's Public Reference Room, and at the Commission's Web site at *http://www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the ''Options Pricing'' section of its fee schedule effective immediately, in order to: (i) Modify the rebates provided by the Exchange for Customer[6] orders that add liquidity to the Exchange's options platform (''BATS Options'') in options classes subject to the penny pilot program as described below (''Penny Pilot Securities'');[7] (ii) modify the fees charged by the Exchange for Customer orders that remove liquidity from BATS Options in Penny Pilot Securities; (iii) modify the rebates provided by the Exchange for Professional,[8] Firm, and Market Maker[9] orders that add liquidity to BATS Options in Penny Pilot Securities; (iv) modify the fees charged by the Exchange for Professional, Firm, and Market Maker orders that remove liquidity from BATS Options in Penny Pilot Securities; (v) modify the rebates provided by the Exchange for Customer orders that add liquidity to BATS Options in non-Penny Pilot Securities; (vi) modify the fees charged by the Exchange for Customer orders that remove liquidity from BATS Options in non-Penny Pilot Securities; (vii) modify the rebates provided by the Exchange for Professional, Firm, and Market Maker orders that add liquidity to BATS Options in non-Penny Pilot Securities; (viii) modify the fees charged by the Exchange for Professional, Firm, and Market Maker orders that remove

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

[6] As defined on the Exchange's fee schedule, a ''Customer'' order is any transaction identified by a Member for clearing in the Customer range at the Options Clearing Corporation (''OCC''), except for those designated as ''Professional''.

[7] The Exchange currently charges different fees and provides different rebates depending on whether an options class is an options class that qualifies as a Penny Pilot Security pursuant to Exchange Rule 21.5, Interpretation and Policy .01 or is a non-penny options class.

[8] The term ''Professional'' is defined in Exchange Rule 16.1 to mean any person or entity that (A) is not a broker or dealer in securities, and (B) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[9] As defined on the Exchange's fee schedule, the terms ''Firm'' and ''Market Maker'' apply to any transaction identified by a member for clearing in the Firm or Market Maker range, respectively, at the Options Clearing Corporation (''OCC'').

liquidity from BATS Options in non-Penny Pilot Securities; (ix) modify the tier thresholds and adjust the rebates provided by the Exchange under the BATS Options NBBO Setter Program;[10] (x) modify the tier thresholds and adjust the rebates provided by the Exchange under the Quoting Incentive Program (''QIP'').[11] In conjunction with proposals (i) through (iv) and (ix) listed above, the Exchange is proposing to eliminate the ''Grow with Us'' rebates and fees and the definitions and footnotes associated therewith.[12] In addition to these changes, the Exchange proposes to make several minor changes to the fee schedule to achieve additional consistency.

(i) Customer Rebates for Adding Liquidity in Penny Pilot Securities

The Exchange currently provides rebates for Customer orders that add liquidity to the BATS Options order book in Penny Pilot Securities pursuant to a tiered pricing structure, as described below. The Exchange proposes to modify this tiered pricing structure and the rebates associated therewith as well as eliminate the rebates associated with the Grow with Us pricing program.

The Exchange currently offers the following rebates per contract for a Customer order that adds liquidity in Penny Pilot Securities to the BATS Options order book: (i) $0.30 where the Member does not qualify for any additional rebates as described below; (ii) $0.31 where the Member has an ADV [13] less than 0.25% of average TCV [14] and also shows a minimum of 10 basis points TCV improvement over their previous High Water Mark; [15] (iii) $0.43 where the Member has an ADV equal to or greater than 0.25% of average TCV but less than 0.75% of average TCV; (iv) $0.44 where the Member has an ADV equal to or greater than 0.25% of average TCV but less than 0.75% of average TCV and also shows a minimum of 10 basis points TCV improvement over their previous High Water Mark; (v) $0.46 where the Member has an ADV equal to or greater than 0.75% of average TCV but less than 1.25% of average TCV; (vi) $0.47 where the Member has an ADV equal to or greater than 0.75% of average TCV but less than 1.25% of average TCV and also shows a minimum of 10 basis points TCV improvement over their previous High Water Mark; and (vii) $0.47 where the Member has an ADV equal to or greater than 1.25% of average TCV.

The Exchange is proposing to adjust the thresholds required to meet the tiers for higher rebates, to simplify the rebate structure by eliminating one tier, to eliminate the Grow with Us rebates, and to increase the rebates associated with each tier such that all Members will receive higher rebates than under the current rebate structure. Specifically, the Exchange is proposing to increase the minimum ADV as a percentage of average TCV necessary to qualify for an increased rebate from 0.25% to 0.30%. The Exchange is also proposing to eliminate the third rebate tier for Members that have an ADV as a percentage of average TCV between 0.25% to 0.75%. The Exchange is proposing to reduce the threshold of ADV as a percentage of average TCV at which Members will receive the highest rebate from 1.25% to 1.00%. Further, the Exchange is proposing to amend the rebates per contract for Customer orders that add liquidity to the BATS Options order book in Penny Pilot Securities as follows: (i) To increase the rebate from $0.30 to $0.45 where the Member does not qualify for a higher rebate based on the Member's ADV; (ii) to provide a rebate of $0.48 where the Member has an ADV equal to or greater than 0.30% of average TCV but less than 1.00% of average TCV; and (iii) to provide a rebate of $0.50 where the Member has an ADV equal to or greater than 1.00% of average TCV.

(ii) Customer Fees for Removing Liquidity in Penny Pilot Securities

The Exchange currently charges fees for Customer orders that remove liquidity from the BATS Options order book in Penny Pilot Securities pursuant to a tiered pricing structure, as described below. The Exchange proposes to modify this tiered pricing structure and the fees associated therewith as well as eliminate the fees associated with the Grow with Us pricing program.

The Exchange currently charges the following fees per contract for a Customer order that adds liquidity in Penny Pilot Securities to the BATS Options order book: (i) $0.45 for an order that does not qualify for a lower fee; (ii) $0.44 where a Member has an ADV less than 0.25% of average TCV and also shows a minimum of 10 basis points TCV improvement over their previous High Water Mark; (iii) $0.44 where a Member has an ADV equal to or greater than 0.25% of average TCV but less than 0.75% of average TCV; (iv) $0.43 where a Member has an ADV equal to or greater than 0.25% of average TCV but less than 0.75% of average TCV and also shows a minimum of 10 basis points TCV improvement over their previous High Water Mark; (v) $0.43 where a Member has an ADV equal to or greater than 0.75% of average TCV but less than 1.25% of average TCV; (vi) $0.42 where a Member has an ADV equal to or greater than 0.75% of average TCV but less than 1.25% of average TCV and also shows a minimum of 10 basis points TCV improvement over their previous High Water Mark; and (vii) $0.42 where a Member has an ADV equal to or greater than 1.25% of average TCV.

The Exchange proposes to eliminate volume tiers, to eliminate the Grow with Us fees, and to modify the fees charged for Customer orders that remove liquidity from the BATS Options order book in Penny Pilot Securities. Specifically, the Exchange is proposing to charge $0.47 per contract for all Customer orders that remove liquidity from the BATS Options order book.

(iii) Non-Customer Rebates for Adding Liquidity in Penny Pilot Securities

The Exchange currently provides a rebate of $0.25 per contract for Professional, Firm, and Market Maker orders that add liquidity to the BATS Options order book in Penny Pilot Securities and are removed by a Customer order. The Exchange currently provides a rebate of $0.35 per contract for Professional, Firm, and Market Maker orders that add liquidity to the BATS Options order book in Penny Pilot Securities and are removed by a Professional, Firm, or Market Maker order.

In order to further incentivize liquidity on BATS Options, the Exchange proposes to eliminate the distinction in pricing based on the

[10] The NBBO Setter Program is a program that provides additional rebates for executions resulting from orders that add liquidity that set either the national best bid (''NBB'') or national best offer (''NBO'').

[11] The QIP is a program designed to enhance market quality by incentivizing market Makers to participate on BATS Options by providing supplemental rebates for executed orders that add liquidity where the Market Maker has an average daily trading volume that exceeds certain thresholds.

[12] The ''Grow with Us'' pricing constitutes enhanced rebates and fees for Members that increase their trading activity on BATS Options.

[13] As defined on the Exchange's fee schedule, ADV is average daily volume calculated as the number of contracts added or removed, combined, per day on a monthly basis. The fee schedule also provides that routed contracts are not included in ADV calculation.

[14] As defined on the Exchange's fee schedule, TCV is total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply.

[15] As defined on the Exchange's fee schedule, High Water Mark is the greater of a Member's Q4 2011 TCV or a Member's highest monthly TCV on BATS Options thereafter.

capacity of the order that removes the order and to increase the rebate for Professional, Firm, and Market Maker orders that add liquidity to the BATS Options order book. Specifically, the Exchange is proposing to offer a $0.40 rebate per contract for all Professional, Firm, or Market Maker orders that add liquidity to the BATS Options order book regardless of the capacity of the order that removes such liquidity.

(iv) Non-Customer Fees for Removing Liquidity in Penny Pilot Securities

The Exchange currently charges a fee of $0.47 per contract for Professional, Firm, and Market Maker orders that remove liquidity from BATS Options in Penny Pilot Securities where the Member does not qualify for a lower charge based on TCV improvement. The Exchange currently charges a fee of $0.46 per contract for Professional, Firm, and Market Maker orders that remove liquidity from BATS Options in Penny Pilot Securities where the Member shows a minimum of 10 basis points of TCV improvement over their previous High Water Mark.

For Professional, Firm, and Market Maker orders that remove liquidity from BATS Options in Penny Pilot Securities, the Exchange is proposing to adjust fees, to eliminate the Grow with Us incentive, and to offer a lower fee for Members that have an ADV equal to or greater than 1.00% of average TCV.

Specifically, the Exchange is proposing to increase its fees for Professional, Firm, and Market Maker orders that remove liquidity from BATS Options in Penny Pilot Securities where the Member does not qualify for a lower fee from $0.47 per contract to $0.48 per contract. The Exchange also proposes to eliminate fees for Professional, Firm, and Market Maker orders that remove liquidity from BATS Options in Penny Pilot Securities where the Member qualifies for Grow with Us pricing based on TCV improvement. Finally, the Exchange is proposing to charge $0.47 per contract for a Professional, Firm, or Market Maker order that removes liquidity from the BATS Options order book where the Member has an ADV equal to or greater than 1.00% of average TCV.

(v) Customer Rebates for Adding Liquidity in non-Penny Pilot Securities

The Exchange currently offers a $0.80 rebate per contract for Customer orders that add liquidity in non-Penny Pilot Securities. The Exchange is proposing to increase the rebate for Customer orders that add liquidity in non-Penny Pilot Securities from $0.80 to $0.85 per contract.

(vi) Customer Fees for Removing Liquidity in Non-Penny Pilot Securities

The Exchange currently charges $0.75 per contract for Customer orders that remove liquidity in non-Penny Pilot Securities. The Exchange is proposing to increase the fee for Customer orders that remove liquidity in non-Penny Pilot Securities from $0.75 to $0.80 per contract.

(vii) Non-Customer Rebates for Adding Liquidity in Non-Penny Pilot Securities

The Exchange currently offers a $0.60 rebate per contract for Professional, Firm, or Market Maker orders that add liquidity in Non-Penny Pilot Securities. The Exchange is proposing to increase the rebate for Professional, Firm, and Market Maker orders that add liquidity in non-Penny Pilot Securities from $0.60 to $0.65 per contract.

(viii) Non-Customer Fees for Removing Liquidity in non-Penny Pilot Securities

The Exchange currently charges $0.84 per contract for Professional, Firm, and Market Maker orders that remove liquidity in non-Penny Pilot Securities. The Exchange is proposing to increase the fee for Professional, Firm, and Market Maker orders that remove liquidity in non-Penny Pilot Securities from $0.84 to $0.89 per contract.

(ix) NBBO Setter Program Rebates

The Exchange's NBBO Setter Program is a program intended to incentivize aggressive quoting on BATS Options by providing an additional rebate upon execution for all orders that add liquidity that set either the NBB or NBO (the ''NBBO Setter Rebate''),[16] subject to certain volume requirements. Orders that qualify for the NBBO Setter Rebate receive the following rebates: $0.03 additional rebate per contract rebate for executions of Professional, Firm and Market Maker orders that qualify for the NBBO Setter Rebate by Members with an ADV equal to or greater than 0.25% of average TCV but less than 0.75% of average TCV; $0.06 additional rebate per contract for qualifying executions of Professional, Firm or Market Maker orders by Members with an ADV equal to or greater than 0.75% of average TCV but less than 1.25% of average TCV; and an additional $0.10 per contract for qualifying executions of Professional, Firm and Market Maker orders by Members with an ADV equal to or greater than 1.25% of average TCV.

The Exchange also applies its Grow with Us pricing program to the lower two tiers of the NBBO Setter Rebate. Accordingly, any Member that qualifies for the lower NBBO Setter Program tier applicable to Members with an ADV equal to or greater than 0.25% of average TCV but not the 0.75% of average TCV tier that achieves at least a 10 basis point increase over its previous High Water Mark is provided a NBBO Setter Rebate of $0.05 per contract for qualifying executions. Similarly, any Member that qualifies for the middle NBBO Setter tier applicable to Members with an ADV equal to or greater than 0.75% of average TCV but less than 1.25% of average TCV that achieves at least a 10 basis point increase over its previous High Water Mark is provided a NBBO Setter Rebate of $0.08 per contract for qualifying executions. The highest NBBO Setter Program tier applicable to Members with an ADV equal to or greater than 1.25% of average TCV is not subject to the Grow with Us pricing program.

The Exchange proposes to simplify the NBBO Setter Program by eliminating the middle volume tier and ceasing to apply the Grow with Us pricing program to the NBBO Setter Program, thus leaving only two separate rebates for qualifying transactions. Further, the Exchange is proposing to adjust the thresholds required to qualify for both the bottom and top tier and to lower the rebates provided for each tier.

Specifically, the Exchange proposes to increase the lower threshold to qualify for the lowest tier of the NBBO Setter Program from an ADV of 0.25% of average TCV to an ADV of 0.30% of average TCV. Further, the Exchange is proposing to raise the upper threshold for the lower tier from an ADV of 0.75% of average TCV to an ADV of 1.00% of average TCV. The Exchange is also proposing to decrease the threshold at which Members will qualify for the top tier of the NBBO Setter Program from an ADV of 1.25% of average TCV to 1.00% of average TCV. As noted above, the Exchange is thus eliminating any middle tier applicable to the NBBO Setter Program.

The Exchange proposes to provide a NBBO Setter Rebate of $0.02 per contract for qualifying executions of Professional, Firm, and Market Maker orders by any Member that qualifies for the lower tier applicable to Members with an ADV equal to or greater than 0.30% of average TCV but less than 1.00% of average TCV. The Exchange also proposes to provide a NBBO Setter Rebate of $0.04 per contract for

[16] An order that is entered at the most aggressive price both on the BATS Options book and according to then current OPRA data will be determined to have set the NBB or NBO for purposes of the NBBO Setter Rebate without regard to whether a more aggressive order is entered prior to the original order being executed.

qualifying executions of Professional, Firm, and Market Maker orders by any Member that qualifies for the higher tier applicable to Members with an ADV equal to or greater than 1.00% of average TCV. The changes proposed above, including the proposed rebates and elimination of Grow with Us incentives, represent a decrease of potential NBBO Setter Rebates that can be achieved by Members.

(x) QIP Rebates

The Exchange is proposing to modify the tier thresholds and adjust the rebates provided under the QIP. Currently, the Exchange offers an additional rebate per contract for an order that adds liquidity to the BATS Options order book in options classes in which a Member is Market Maker registered on BATS Options pursuant to Rule 22.2 as follows:

ADV of BATS options registered market maker	Customer	Professional/ firm/market maker
ADV less than 0.25% TCV	0.01	0.05
ADV equal to or greater than 0.25% but less than 0.75% TCV	0.03	0.05
ADV equal to or greater than 0.75% but less than 1.25% TCV	0.03	0.06
ADV equal to or greater than 1.25% TCV	0.03	0.08

The Exchange proposes to eliminate the lowest tier of QIP such that a Member must at least achieve an ADV of 0.30% of average TCV in order to qualify for an additional rebate. The Exchange also proposes to increase the lower threshold to qualify for the lowest QIP tier from an ADV of 0.25% of average TCV to an ADV of 0.30% of average TCV and to increase the upper threshold from 0.75% to 1.00%. The Exchange is also proposing to lower the threshold for the upper QIP tier from an ADV of 1.25% of average TCV to an ADV of 1.00% of average TCV. In conjunction with these proposed threshold adjustments, the Exchange is also proposing to eliminate the middle tier that currently covers a Member with an ADV as a percentage of TCV equal to or greater than 0.75%, but less than 1.25%. The Exchange is also proposing to remove Customer orders from participation in the QIP. Finally, the Exchange is proposing to modify the QIP by providing qualifying Professional, Firm, and Market Maker orders with QIP rebates, as follows:

ADV of BATS options registered market maker	Professional/ firm/market maker
ADV equal to or greater than 0.30% but less than 1.00% TCV	$0.02
ADV equal to or greater than 1.00% TCV	0.04

The changes proposed above, including the proposed rebates and elimination of QIP incentives for Customer orders, represent a decrease of potential additional QIP rebates that can be achieved by Members.

Additional Changes

In addition to the proposals set forth above, the Exchange proposes various minor additional changes. In conjunction with the elimination of Grow with Us pricing incentives, the Exchange proposes to eliminate the definition of High Water Mark, which is only applicable to Grow with Us pricing, and to reserve for future use footnote 4 of the fee schedule, which references Grow with Us pricing. Finally, in the section regarding Customer rebates for added liquidity in Penny Pilot Securities the Exchange proposes to make changes to ensure consistent capitalization and references to Member ADV and to change one reference of adding liquidity ''from'' the Exchange to adding liquidity ''to'' the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[17] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[18] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

Volume-based rebates and fees such as the ones maintained by BATS Options, and as amended by this proposal, have been widely adopted in the cash equities markets, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. Accordingly, the Exchange believes that the proposed changes to the Exchange's tiered pricing structure and incentives are not unfairly discriminatory because they are consistent with the overall goals of enhancing market quality. Similarly, the Exchange believes that continuing to base its tiered fee structure on overall TCV, rather than a static number of contracts irrespective of overall volume in the options industry, is a fair and equitable approach to pricing. The Exchange notes that while certain thresholds to meet Exchange tiers are increasing (*i.e.,* from ADV of 0.25% of average TCV to ADV of 0.30% of average TCV, and for those qualifying for an intermediate tier based on ADV and/or applicable Grow with Us incentives) the Exchange has increased its base rebates and has also reduced the level of ADV needed to qualify for the top tier from 1.25% of average TCV to 1% of average TCV.

As explained above, while the Exchange is maintaining a tiered pricing structure with respect to certain fees and rebates, the Exchange is also proposing to eliminate considerable variability with respect to its pricing structure. The Exchange believes that this simplification will benefit Members by providing more predictable fees and rebates when trading on the Exchange.

Despite the increases in fees for all orders that remove liquidity (Customer, Professional, Firm and Market Maker orders) in both Penny Pilot Securities and non-Penny Pilot Securities, the Exchange believes that its proposed fee structure is reasonable as the Exchange's fees remain generally equivalent to

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4).

standard fees charged by other markets with similar fee structures, such as the NASDAQ Options Market (''NOM'') and NYSE Arca, Inc. (''ARCA''). The increase in fees is also reasonable because the Exchange has also proposed to increase the rebates provided to add liquidity. Similarly, the Exchange believes that the increases are fair and equitable because, in addition to increased rebates generally, the Exchange will continue to offer incentives to receive reduced fees and enhanced rebates that provide all Members with several different ways to offset the increase in fees. As noted above, the Exchange believes that such volume-based tiers are fair and equitable and not unreasonably discriminatory because they are consistent with the overall goals of enhancing market quality. The proposed increases to rebates are reasonable in that they will further incentivize Members to add liquidity to BATS Options and will help to offset proposed increases in fees. Additional information regarding each of the proposed changes is set forth below.

The Exchange's proposed changes to the rebates provided for Customer orders that add liquidity to the BATS Options order book in Penny Pilot Securities are reasonable and equitably allocated because they represent an increase in rebates for all Customer orders submitted to the Exchange and simplify the Exchange's rebate structure for such orders. Most significantly, the lowest possible rebate for any Customer order would be increased by $0.15 per contract. The proposed changes, including modifications to the Exchange's tiered rebate structure, are fair and equitable and not unreasonably discriminatory for the reasons described above with respect to volume-based rebates and fees.

The Exchange's proposed changes with respect to the fees charged for Customer orders that remove liquidity from the BATS Options order book in Penny Pilot Securities are reasonable and equitably allocated because they will significantly simplify the pricing structure for executions of Customer orders on the Exchange. Further, the proposed fees are reasonable because they represent only a modest increase to fees that can be offset with the substantial increase to rebates for such orders, as described above. The Exchange further believes that its fees for Customer orders are reasonable because they are generally equivalent to standard fees charged by other markets with similar fee structures, such as NYSE Arca and NOM. The Exchange believes that the proposed fees are equitably allocated and not unreasonably discriminatory because they are as low or lower than the fee to remove liquidity charged to all other participants on the Exchange and because the fee applies equally to all Customer orders.

The Exchange's proposal to modify the rebate provided to non-Customers that add liquidity to the Exchange in Penny Pilot Securities is reasonable and equitably allocated because it will simplify and increase the rebate provided to all Professional, Firm, or Market Maker orders that add liquidity to the BATS Options order book regardless of the capacity of the order that removes such liquidity. As such, and because all Professional, Firm, and Market Maker orders will receive the same rebate (subject to additional incentives, including the NBBO Setter Program and QIP), the Exchange believes that the proposal is not unreasonably discriminatory.

The Exchange's proposal to increase its fees for Professional, Firm, and Market Maker orders that remove liquidity from BATS Options in Penny Pilot Securities where the Member does not qualify for a lower fee is reasonable because it represents only a modest increase to fees that can be offset with the increase to rebates for such orders, as described above. The Exchange further believes that its fees for Professional, Firm, and Market Maker orders in Penny Pilot Securities are reasonable because they are generally equivalent to standard fees charged by other markets with similar fee structures, such as NYSE Arca and NOM. The Exchange's offering of a reduced fee for Professional, Firm, and Market Maker orders for Members that meet a volume threshold is fair and equitable and not unreasonably discriminatory for the reasons described above with respect to volume-based rebates and fees.

The proposed increase in rebate for Customer orders that add liquidity in non-Penny Pilot Securities is reasonable and equitably allocated because it is the highest rebate provided by the Exchange, which the Exchange believes will further incent the addition of Customer orders in non-Penny Pilot Securities to the Exchange's order book. The proposed change is not unreasonably discriminatory in that it will apply equally to all Customer orders.

The proposed increase to the fee for Customer orders that remove liquidity in non-Penny Pilot Securities is reasonable and equitably allocated because it represents only a modest increase to the existing fee and remains generally equivalent to standard fees charged by other markets with similar fee structures, such as NYSE Arca and NOM. The proposal is not unreasonably discriminatory because it will apply equally to all Customer orders. As described above, the fee increase is proposed along with a corresponding increase to the rebate, which should offset some or all of the increased cost to Customer orders.

The Exchange's proposed increase to the rebate for Professional, Firm, and Market Maker orders that add liquidity in non-Penny Pilot Securities is reasonable and equitably allocated because it will incent the addition of Professional, Firm, and Market Maker orders in non-Penny Pilot Securities to the Exchange's order book. The proposed change is not unreasonably discriminatory in that it will apply equally to all Professional, Firm, and Market Maker orders.

The Exchange's proposed increase to the fee to remove liquidity for Professional, Firm, and Market Maker orders that remove liquidity in non-Penny Pilot Securities is reasonable and equitably allocated because it represents only a modest increase to the existing fee and remains generally equivalent to standard fees charged by other markets with similar fee structures, such as NYSE Arca and NOM. While Professional, Firm and Market Maker orders will be assessed comparably higher transaction fees than those assessed to other Customer orders, as proposed, the Exchange does not believe that this pricing is unreasonably discriminatory because the securities markets generally, and the Exchange in particular, have historically aimed to improve markets for investors and develop various features within the market structure for customer benefit. The Exchange also notes that Professional, Firm and Market Maker orders qualify for additional rebates under the Exchange's NBBO Setter Program, which is not applicable to Customer orders. As noted elsewhere, the fee increase is proposed along with a corresponding increase to the rebate, which should offset some or all of the increased cost to Customer orders.

The Exchange's proposed changes to the NBBO Setter Program, including a general reduction to the rebates available through the program, are reasonable and equitably allocated in that they are coupled with increases to the standard rebate to add liquidity. The proposed rebate structure will reduce the variability and complexity of rebates for Professional, Firm and Market Maker orders added to the Exchange's order book. The applicability of the NBBO

Setter Program to Members achieving certain volume thresholds is fair and equitable and not unreasonably discriminatory for the reasons described above with respect to volume-based rebates and fees. Further, the Exchange notes that it has reduced the ADV threshold that a Member needs to reach in order to qualify for the higher tier. The Exchange also notes that continued exclusion of Customer orders from NBBO Setter rebates is reasonable, fair and equitable, and not unreasonably discriminatory given the higher base and tiered rebates already provided to Customer orders. Despite the fact that Customer orders are not eligible for NBBO Setter Rebates, the proposed modifications to NBBO Setter Rebates are fair and equitable and not unreasonably discriminatory because in most circumstances, Customer orders that do not set the NBBO are eligible for even higher rebates than certain Professional, Firm, and Market Maker orders that did set the NBBO and receive a NBBO Setter Rebate.

Similarly, the Exchange's removal of Customer orders from the QIP is reasonable, fair and equitable, and not unreasonably discriminatory due to the higher base and tiered rebates already provided to Customer orders. The applicability of the QIP to Members achieving certain volume thresholds is fair and equitable and not unreasonably discriminatory for the reasons described above with respect to volume-based rebates and fees. The Exchange also notes that although registration as a market maker is required to qualify for QIP, such registration is available to all Members on an equal basis. With respect to the reduced rebates available through QIP, the Exchange reiterates that such reduction is reasonable and equitably allocated due to a higher base rebate that will be applicable to all Members. Not only will the higher base rebate help Members to offset any reduction to QIP rebates but the lower QIP rebates paid by the Exchange will allow the Exchange to fund such higher based rebates.

The elimination of the Grow with Us incentive from the Exchange's tiered pricing structure is also reasonable, equitably allocated and not unfairly discriminatory because it will significantly simplify the Exchange's fee schedule and has been coupled with various increases to standard rebates that will help to reduce the variability of rebates provided by the Exchange. Further, elimination of the Grow with Us incentive will allow the Exchange to allocate resources devoted to the program to other pricing programs.

Finally, the Exchange believes that the various formatting and ministerial changes are reasonable as they will help to avoid confusion for those that review the Exchange's fee schedule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. With respect to the changes to fees and rebates for executions on the Exchange that are set forth in this proposal, the Exchange does not believe that any such changes burden competition, but instead, enhance competition, as they are intended to increase the competitiveness of and draw additional volume to the Exchange's platform. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels set by the Exchange to be excessive. The proposed changes are generally intended to simplify the Exchange's fee structure while enhancing the base rebates for liquidity added to the Exchange, which is intended to draw additional liquidity to the Exchange. Thus, the proposal is a competitive proposal that is intended to add additional liquidity to the Exchange, which will, in turn, benefit the Exchange and all Exchange participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on 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 [19] and paragraph (f) of Rule 19b–4 thereunder.[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.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2014–001 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–BATS–2014–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2014–001, and should be submitted on or before February 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–01104 Filed 1–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71312; File No. SR–BOX–2014–01]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Establish Fees for Complex Order Price Improvement Period (''COPIP'') Transactions

January 15, 2014.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 9, 2014, BOX Options Exchange LLC (the ''Exchange'') 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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule to establish fees for Complex Order Price Improvement Period (''COPIP'') transactions on the BOX Market LLC (''BOX'') options facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com*.

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, Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX to establish fees for COPIP [5] transactions. The Exchange recently amended its rules to permit Complex Orders [6] to be submitted to a price improvement period auction mechanism similar to the existing Price Improvement Period (''PIP'') mechanism for single option series on BOX.[7] The Exchange believes the COPIP will result in more efficient transactions, reduced execution risk to BOX Options Participants, and greater opportunities for price improvement. The Exchange is submitting this filing to describe the fees that are applicable to COPIP transactions.

Generally, the Exchange proposes to treat COPIP transactions in the same manner as PIP transactions within the BOX Fee Schedule. While standard Complex Order transactions are subject to the fees and credits set forth in Section III (Complex Order Transaction Fees) of the Fee Schedule, COPIP transactions will instead be subject to Sections I (Exchange Fees) and II (Liquidity Fees and Credits).

First, the Exchange proposes to add language throughout Section I (Exchange Fees) to state that Auction Transactions fees will now include those transactions executed through the COPIP and that all COPIP transactions will be charged per contract per leg. The Exchange currently assesses Exchange Fees based on transaction type and account type with distinct fees for Auction Transactions (transactions executed through the BOX Price Improvement Period, Solicitation, and Facilitation auction mechanisms), and non-Auction Transactions (transactions executed on the BOX Book). Specifically, for Public Customers the Exchange proposes to assess a $0.00 per contract fee for COPIP Orders [8] and a $0.15 per contract fee for Improvement Orders [9] in the COPIP. For Professional Customers and Broker Dealers, the Exchange proposes to assess a $0.37 per contract fee for both COPIP Orders and Improvement Orders in the COPIP.

The remaining types of Exchange Fees are based upon a Participant's monthly average daily volume (''ADV'') in Auction Transactions and Non-Auction Transactions. The Exchange proposes that Exchange Fees for Initiating Participants, regardless of account type, who submit a Primary Improvement Order [10] in the COPIP will be based upon a Participants' monthly average daily volume (''ADV'') in all Auction Transactions as calculated at the end of each month and detailed in Section I.A. For Market Makers, the Exchange proposes to assess a per contract, tiered, execution fee on COPIP Orders and Improvement Orders in the COPIP under Section I.B that is based on their monthly ADV in all transactions executed on BOX, as calculated at the end of each month.

Second, the Exchange proposes to treat COPIP transactions in the same manner as PIP transactions for liquidity fees and credits, which are applied in addition to any applicable exchange fees as described in Section I of the Fee Schedule. Specifically, the Exchange proposes that COPIP Orders (i.e., the agency orders opposite the Primary Improvement Order) receive a ''removal'' credit and Improvement Orders in the COPIP be charged an ''add'' fee.

Specifically, the Exchange proposes that COPIP transactions in classes where the minimum price variation of $0.01 (i.e., Penny Pilot classes where the trade price is less than $3.00 and all series in

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] As defined in Rule 7245, the term ''COPIP'' means Complex Order Price Improvement Period.

[6] As defined in Rule 7240(a)(5), the term ''Complex Order'' means any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy.

[7] *See* Securities Release No. 71148 (December 19, 2013), 78 FR 78437 (December 26, 2013) (Order Approving SR–BOX–2013–43).

[8] As defined in Rule 7245, the term ''COPIP Order'' means a Complex Order designated for the COPIP.

[9] As defined in Rule 7245, the term ''Improvement Order'' means a competing Complex Order submitted to BOX by an Order Flow Provider or Market Maker during a COPIP.

[10] As defined in Rule 7245, the term ''Primary Improvement Order'' means the matching contra order equal to the full size of the corresponding COPIP Order.

QQQ, SPY, and IWM) will be assessed a fee for adding liquidity or provided a credit for removing liquidity of $0.35, regardless of account type. For COPIP transactions where the minimum price variation is greater than $0.01 (i.e., all non-Penny Pilot Classes, and Penny Pilot Classes where the trade price is equal to or greater than $3.00, excluding QQQ, SPY, and IWM), the Exchange proposes a fee for adding liquidity or a credit for removing of $0.75, regardless of account type. In addition, the Exchange proposes to specify that an Unrelated Order [11] that is not immediately marketable will be charged as an Improvement Order when it executes against a COPIP Order.

For Jumbo SPY Option COPIP Transactions, the Exchange proposes to treat these transactions in the same manner as Jumbo SPY PIP transactions. Specifically, Jumbo SPY Option COPIP Orders will be charged a ''removal'' fee of $0.50 and Jumbo SPY Option COPIP Improvement Orders will receive an ''add'' credit of $0.30. The Exchange also proposes to clarify that this section is not applicable to Complex Order transactions in Jumbo SPY Options and that an Unrelated Jumbo SPY Option Order that is not immediately marketable will receive the ''add'' credit as an Improvement Order when it executes against a Jumbo SPY Option COPIP Order.

Finally, the Exchange proposes to amend Section III (Complex Order Transaction Fees) to clarify that the transaction fees and credits set forth in this section will apply to executions of Complex Orders; except that COPIP transactions will be subject to Sections I (Exchange Fees) and II (Liquidity Fees and Credits). The Exchange notes that the Options Regulatory Fee [12] outlined in Section V (Regulatory Fees) will apply to all COPIP transactions.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed COPIP transaction fees are reasonable, equitable and non-discriminatory. The COPIP is a new auction mechanism that allows Participants to submit Complex Orders in substantially the same manner as they currently submit orders for single option series instruments in the PIP. As such the Exchange believes it is reasonable for the COPIP fees to mimic the current PIP transaction fees. Additionally, the Exchange believes the proposed COPIP fees will allow the Exchange to be competitive with other exchanges and to apply fees and credits in a manner that is equitable among all BOX Participants. The Exchange operates within a highly competitive market in which market participants can readily direct order flow to any other competing exchange if they determine fees at a particular exchange to be excessive. The COPIP transaction fees are intended to attract Complex Orders to the Exchange by offering market participants incentives to submit their Complex Orders through the COPIP. The Exchange believes it is appropriate to provide incentives for market participants to submit orders to the COPIP, resulting in greater liquidity and ultimately benefiting all Participants trading on the Exchange.

Exchange Fees

The Exchange believes it is equitable and not unfairly discriminatory that Public Customers be charged lower Exchange Fees in COPIP transactions than Professionals, Broker-Dealers and Market Markers on BOX. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for customer benefit. As such, the Exchange believes the proposed fees for Public Customer transactions in COPIP transactions are reasonable and not unfairly discriminatory. The Exchange believes it promotes the best interests of investors to have lower transaction costs for Public Customers, and that lower COPIP transaction fees will attract Public Customer order flow to BOX.

Moreover, the Exchange believes that assessing Professionals and Broker-Dealers a higher Exchange fee than Public Customers for COPIP transactions is reasonable, equitable and not unfairly discriminatory because these types of Participants are more sophisticated and have higher levels of order flow activity and system usage. This level of trading activity draws on a greater amount of BOX system resources than that of Public Customers, and thus, generates greater ongoing BOX operational costs. Further, the Exchange believes that charging Professionals and Broker-Dealers the same fee for all COPIP transactions is not unfairly discriminatory as the fees will apply to all Professionals and Broker-Dealers equally. Professionals and Broker-Dealers remain free to change the manner in which they access BOX.

The Exchange believes its proposal to charge Initiating Participants in COPIP transactions based on the Participant's ADV in all Auction Transactions, including COPIP transactions, is reasonable. The Exchange believes that providing a volume discount to Options Participants that initiate auctions on Customer orders incentivizes these Participants to submit their customer orders to the COPIP for potential price improvement. Additionally, the Exchange believes it is reasonable for Participants initiating a COPIP to be assessed a lower fee than those providing responses. Initiating Participants guarantee the COPIP Order, and are subject to market risk during the time period the COPIP Order is exposed to other BOX Participants. While other COPIP Participants are also subject to market risk, those providing responses in the COPIP through Primary Improvement Orders are not permitted to cancel their orders and may only modify their Primary Improvement Order, including reducing their order quantity, by providing a better price. The Exchange believes that the Initiating Participant acts in a critical role in the COPIP as their willingness to guarantee the customer COPIP Order is the keystone to the customer order gaining the opportunity for price improvement.

Further, the Exchange believes it is equitable and not unfairly discriminatory to provide Initiating Participants a tiered fee structure related to their participation in Auction Transactions, including COPIP transactions. The proposed fee structure for Primary Improvement Orders in the COPIP is related to trading activity in BOX Auction Transactions and is available to all BOX Options Participants; they may choose to trade on BOX to take advantage of the discounted fees for doing so, or not. Participants will benefit from the opportunity to aggregate their trading in the BOX auction mechanisms to more easily attain a discounted fee tier. The tiered fee structure in the BOX auction mechanisms aims to attract order flow to BOX, providing greater potential liquidity within the overall BOX market

[11] As defined in Rule 7245, the term ''Unrelated Order'' means a non-Improvement Order entered on BOX during a COPIP or BOX Book Interest during a COPIP.

[12] The Options Regulatory Fee is assessed to each BOX Options Participant for all options transactions executed or cleared by the BOX Options Participant that are cleared by The Options Clearing Corporation (OCC) in the customer range regardless of the exchange on which the transaction occurs.

[13] 15 U.S.C. 78f(b)(4) and (5).

and its auction mechanisms, to the benefit of all BOX market participants.

Finally, the Exchange believes it is equitable and not unfairly discriminatory for BOX Market Makers to have the opportunity to benefit from lower COPIP transaction fees than the fees charged to other Participants. Generally, Market Makers have obligations on BOX that other Participants do not. They must maintain active two-sided markets in the classes in which they are appointed, and must meet certain minimum quoting requirements. Market Makers also provide significant contributions to overall market quality. Specifically, Market Makers can provide high volumes of liquidity and lowering their COPIP transaction fees will help attract a higher level of Market Maker order flow and create liquidity, which the Exchange believes will ultimately benefit all Participants trading on BOX. As such, the Exchange believes it is appropriate that Market Makers be charged lower COPIP transaction fees on BOX.

The Exchange believes that the proposed tiered and discounted COPIP transaction fees for Market Makers that, on a daily basis, trade an average daily volume (as calculated at the end of the month) of 5,001 contracts or more on BOX represent a fair and equitable allocation of reasonable dues, fees, and other charges as they are aimed at incentivizing these Participants to provide a greater volume of liquidity. The Exchange believes that giving incentives for this activity results in increased volume on BOX, which benefits all Participants.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to include COPIP transactions to calculate the tier a Market Maker has reached because doing so will provide the Market Maker with an opportunity to qualify for increased rebates and, therefore, incentivize these Participants to trade more of such order flow on the Exchange.

The Exchange believes that the proposed COPIP transaction fees will keep BOX competitive with other exchanges as well as be applied in such a manner so as to be equitable among all BOX Participants. The Exchange believes the proposed fees are fair and reasonable and must be competitive with fees in place on other exchanges. Further, the Exchange believes that this competitive marketplace impacts the fees proposed for BOX.

Liquidity Fees and Credits

The Exchange believes it is equitable and not unfairly discriminatory to assess the proposed fees for COPIP transactions because the proposed fee for adding liquidity and credit for removing liquidity will apply uniformly to all categories of participants, across all account types. The Exchange also believes the proposed liquidity fees and credits for COPIP transactions to be reasonable. The proposed fee structure aims to attract order flow to the COPIP, potentially providing greater liquidity within the overall BOX market to the benefit of all BOX market participants. The Exchange notes that the proposed fees and credits for transactions on BOX offset one another in any particular transaction. The result is that BOX will collect a fee from Participants that add liquidity on BOX and credit another Participant an equal amount for removing liquidity. Stated otherwise, the collection of these liquidity fees will not directly result in revenue to BOX, but will simply allow BOX to provide the credit incentive to Participants in order to attract order flow. The Exchange believes it is appropriate to provide incentives to market participants to direct order flow to remove liquidity from BOX, similar to various and widely-used exchange-sponsored payment for order flow programs. Further, the Exchange believes that fees for adding liquidity on BOX will not deter Participants from seeking to add liquidity to the BOX market so that they may interact with those participants seeking to remove liquidity.

The Exchange believes it is reasonable to assess the proposed COPIP liquidity fees and credits at a lower rate ($0.35) in classes with a minimum price variation of $0.01 (i.e., Penny Pilot classes where trade price is less than $3.00, and all series in QQQ, SPY and IWM); compared to a higher rate ($0.75) in classes with a minimum price variation of greater than $0.01 (i.e., all Non-Penny Pilot classes and Penny Pilot classes where trade price is equal to or greater than $3.00, excluding QQQ, SPY & IWM that trade in increments of $0.05 or more). The Exchange believes that options which trade at these wider spreads merit offering greater inducement for market participants. In particular, within the PIP, minimum increments of $.05 or $.10 provide greater opportunity for market participants to offer price improvement. As such, BOX believes that the opportunity for additional price improvement provided by these wider spreads again merits offering greater incentive for Participants to increase the potential price improvement for customer orders in these PIP transactions.

The Exchange believes it is reasonable and equitable to treat a non-immediately marketable Unrelated Order that executes against a COPIP Order as an Improvement Order for purposes of the Exchange's liquidity fees. The COPIP liquidity fees and credits are intended to attract order flow to the Exchange by offering incentives to all market participants to participate in the COPIP. The COPIP Unrelated Order is either a non-Improvement Order entered on BOX during a COPIP or BOX Book Interest during a COPIP. Currently, a Participant that submits a non-Improvement Order, which then executes against a COPIP Order, receives the same trading benefit as a Participant who submits an Improvement Order. While these Unrelated Orders are not typically submitted on the opposite side of a COPIP Order, they should be charged the appropriate ''add'' fee once they execute against a COPIP Order. Further, the Exchange believes it is reasonable and equitable for a Participant that has submitted the BOX Book Interest to be charged the ''add'' fee when that order executes against a COPIP Order. The Participant receives the benefit of a COPIP execution and would already expect to be charged a fee for adding liquidity under Section II.C. of the Fee Schedule. Therefore the fee would be no different than the fee the Participant was expecting to pay. The Exchange believes that treating non-immediately marketable Unrelated Orders as Improvement Orders is equitable and not unfairly discriminatory because the applicable liquidity fees will apply uniformly to all categories of participants, across all account types.

Complex Order Transaction Fees

As stated above, the Exchange believes treating COPIP transactions in the same manner as PIP transactions for purposes of the BOX Fee Schedule is appropriate. The Exchange proposes to clarify this approach by stating that unlike Complex Orders, COPIP transactions will not be subject to this section.

Regulatory Fees

Finally, the Exchange believes that charging the standard ORF for COPIP transactions is reasonable, equitable and not unfairly discriminatory since the costs to the Exchange to process quotes, orders, trades and implement the necessary regulatory surveillance programs and procedures for these

transactions remain the same. The ORF is in place to help the Exchange offset regulatory expenses and the Exchange's cost of supervising and regulating Participants, including performing routine surveillances, and policy, rulemaking, interpretive, and enforcement activities remains the same for COPIP transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to provide greater specificity and precision within the Fee Schedule with respect to the fees that will be applicable to COPIP transactions.

The Exchange believes that adopting COPIP Fees will not impose a burden on competition among various Exchange Participants. The fees proposed are meant to mimic the fees currently assessed on a substantially similar auction mechanism on BOX. Submitting a COPIP is entirely voluntary and Participants can determine which type of order they wish to submit, if any, to the Exchange.

Further, the Exchange believes that the proposed COPIP fees will enhance competition between exchanges because it is designed to allow the Exchange to better compete with other exchanges for Complex Order flow. In this regard, the COPIP is a new mechanism being introduced by the Exchange and BOX is unable to absolutely determine the impact that the COPIP fees proposed herein will have on trading. That said, however, the Exchange believes that the proposed COPIP fees would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed liquidity fees and credits burden competition by creating such a disparity between the fees an Initiating Participant in the COPIP pays and the fees a competitive responder pays that would result in certain participants being unable to compete with initiators. These fees and credits are identical to those for the PIP auction mechanism, which have not had a negative impact on competition. BOX notes that its market model and fees are generally intended to benefit retail customers by providing incentives for Participants to submit their customer order flow to BOX, particularly the PIP and now the COPIP. In fact, the Exchange believes that these changes will not impede these Participants from adding liquidity and competing in the COPIP and will help promote competition by providing incentives for market participants to submit customer order flow to BOX and thus, create a greater opportunity for retail customers to receive additional price improvement.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing exchanges. 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 either solicited or received.

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)(ii) of the Exchange Act [14] and Rule 19b–4(f)(2) thereunder,[15] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–BOX–2014–01 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–BOX–2014–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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–BOX–2014–01 and should be submitted on or before February 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–01108 Filed 1–21–14; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 240.19b–4(f)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71311; File No. SR–OCC–2014–01]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning Amendments to the Charters for the Membership/Risk Committee, Audit Committee and Performance Committee of OCC's Board of Directors

January 15, 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 January 2, 2014, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by OCC. 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

This proposed rule change concerns amendments to the Charters for the Membership/Risk Committee (''MRC Charter''), Audit Committee (''AC Charter'') and Performance Committee (''PC Charter'') (collectively, the ''Committee Charters'') of OCC's Board of Directors (''Board'').

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

(1) Purpose

On an annual basis, each Committee is required to review its charter and recommend changes, if any, to the Board for approval. This proposed rule change concerns proposed amendments to the MRC Charter, AC Charter and PC Charter and is a result of that review and approval process.[3] All of the proposed amendments have been approved by the Board.

Common Changes

Each Committee Charter[4] is proposed to be amended to more clearly set forth certain uniform administrative functions of the Membership/Risk Committee (''MRC''), Audit Committee (''AC'') and Performance Committee (''PC'') (collectively, ''Committees''). Such functions include: (1) Each Committee Chair is responsible for ensuring that important issues discussed at Committee meetings are timely reported to the Board, (2) each Committee Chair is allowed to determine if minutes of executive sessions will be maintained, (3) each Committee will annually confirm that all responsibilities outlined in its charter have been carried out, and (4) the Committees' and individual members' performance shall be evaluated on a regular basis and that the results of such assessment are provide [sic] to the Governance Committee (''GC'') for review.

OCC also proposes to amend the MRC Charter, AC Charter and PC Charter to better reflect certain specific functions of MRC, AC and PC, respectively. Such proposed amendments are discussed in greater detail below.

Membership/Risk Committee

The MRC assists the Board in overseeing OCC's policies and processes for identifying and addressing strategic, operational and financial risks. The MRC has had longstanding authority to review OCC's risk management functions and practices, and consistent with that authority, OCC is proposing to amend the MRC Charter to more clearly provide for the MRC's oversight over the activities of the Chief Risk Officer (''CRO''). Specifically, the proposed amendments to the MRC Charter will expressly provide that: (1) The MRC will meet at least annually with the CRO in executive session, (2) the MRC has the authority to approve management's decision to appoint or replace the CRO, (3) the MRC will assess the performance of the CRO and OCC's Enterprise Risk Management (''ERM'') Department as well as oversee the structure, staffing and resources of the ERM Department, and (4) the MRC shall approve the CRO's salary, the MRC Chair will participate in the PC meeting in which compensation for senior management is determined and the MRC Chair has delegated authority to modify the CRO's prior approved salary based on the discussions at such PC meeting.

In addition, OCC proposes to amend the MRC Charter to expressly state that the MRC has authority to review and recommend the OCC Risk Appetite Statement[5] to the Board for approval, and to review and monitor OCC's risk profile for consistency with such statement.

Audit Committee

The AC assists the Board in overseeing OCC's financial reporting process, OCC's system of internal control and OCC's auditing, accounting and compliance processes. The AC has had longstanding authority to review OCC's independent accountant and, consistent with that authority, OCC proposes to amend the AC Charter to more clearly describe such authority. Specifically, OCC proposes to amend the AC Charter to expressly provide that the AC has the authority to pre-approve the appointment and dismissal of OCC's independent accountant as well as assess OCC's independent accountant's qualifications, performance and independence. These proposed changes align with best practices and reflect the AC's oversight of the external auditor to better assure independence in connection with the performance of the external auditors' function and services. In addition, OCC proposes to amend the AC Charter to reflect the AC's oversight role in the structure, staffing and resources of OCC's Internal Audit Department, to recognize that OCC's Internal Audit Department will utilize co-sourced resources[6] and that OCC's

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] At its meeting on May 21, 2013, OCC's Board authorized formation of a Governance Committee (''GC'') and approved the GC Charter at its September 24, 2013, meeting. As set forth in the GC Charter, the purpose of the GC is to review the overall corporate governance of OCC and recommend improvements to OCC's Board. Changes to the GC Charter are not included in this rule filing because the GC was only recently formed. The GC work is ongoing and the MRC, the AC and the PC continue to discharge their obligations under their respective charters. The GC Charter was submitted as an Advance Notice filing on November 26, 2013. *See* Securities Exchange Act Release No. 71083 (December 16, 2013), 78 FR 76181 (December 20, 2013), (SR–OCC–2013–807).

[4] The current versions of the Committee Charters were approved on December 6, 2013. *See* Securities Exchange Act Release No. 71022 (December 6, 2013), 78 FR 75659 (December 12, 2013), (SR–OCC–2013–17).

[5] OCC's Risk Appetite Statement is a key component of its enterprise risk management program. The Risk Appetite Statement assists OCC management and its Board to more effectively communicate and monitor OCC's tolerance for risk taking. The Risk Appetite Statement sets the standards on which all of OCC's risk identification, measurement, monitoring, and testing are based.

[6] Co-sourced resources are consultants hired on a temporary basis to assist with a particular project when OCC's Internal Audit Department staff is

Continued

Chief Audit Executive (''CAE'') will recommend to the AC a co-sourced resource hour budget. The CAE is the head of OCC's Internal Audit Department and reports to OCC's Chairman and to the AC Chair. The CAE is a new title provided to the current senior staff person in OCC's Internal Audit Department.

If the budget is approved, it is proposed that the CAE will be delegated authority to (1) hire internal audit co-sourced service providers to augment OCC's Internal Audit Department, as necessary, or for any other practical purpose, (2) review the performance of the internal audit co-sourcing service providers, and exercise final approval on the appointment, retention and discharge of such service providers, and (3) approve the scope of services to be performed by internal audit co-sourcing service providers. OCC proposes that the AC will oversee any co-sourcing activity while delegating the administrative aspects of the arrangement to the CAE in order to efficiently manage the process while not overburdening the AC.

Moreover, OCC proposes to amend the AC Charter to provide that the AC shall approve the CAE's salary, to require the AC Chair to participate in the PC meeting in which compensation for senior management is determined and to delegate authority to the AC Chair to modify the CAE's prior approved salary based on the discussion at such PC meeting.

Performance Committee

The PC assists the Board in (i) overseeing the overall performance of OCC in promptly and accurately delivering, clearance, settlement and other designated industry services, and the accomplishment of other periodically established corporate goals and objectives in light of OCC's role as a systemically important financial market utility; (ii) recommending the compensation of the Chairman, the Management Vice Chairman, and President to the Board and approving the compensation of certain other officers, and (iii) reviewing and approving the structure and design of employee compensation, incentive and benefit programs. In connection therewith, OCC proposes to amend the PC Charter to provide that (1) the PC Chair will meet at least annually in private sessions with the GC Chair to discuss the performance of key officers, and (2) the PC will meet annually to discuss compensation levels of key officers and that the Chairs of the AC and MRC will be invited to attend such meeting with respect to the compensations levels of the CAE and CRO, respectively.

(2) Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[7] and the rules and regulations thereunder because the proposed amendments to the Committee Charters clarify the roles of the Committees and will help ensure that OCC's governance structure is designed to protect investors and the public interest. By adopting certain proposed clarifying amendments to the MRC Charter, AC Charter and PC Charter that specify the duties and operations of such Committees, OCC will further ensure, as required under Rule 17Ad–22(d)(8), a clear and transparent governance structure that will fulfill the public interests requirements in Section 17A of the Act, support the objectives of OCC's owners and participants, and promote the effectiveness of OCC's risk management procedures.[8] 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.[9] This proposed rule change will help ensure that OCC meets regulatory requirements that it has a clear and transparent governance structure, as well as clarify the duties and operation of the Committees, through the amendment of the Committee Charters. To the extent OCC's clearing members are affected by the proposed rule change, OCC believes that, by clarifying the terms of the Committee Charters, OCC will not disadvantage or favor any particular user in relationship to another user because all of its participants will equally have greater certainty and visibility concerning OCC's governance arrangements and that such clarification will facilitate the prompt and accurate settlement of securities transactions. Accordingly, OCC does not believe that the proposed rule will impose any burden on competition that is not necessary or appropriate 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 such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2014–01 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–OCC–2014–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

otherwise fully engaged and requires additional resources or skill sets to complete a project on a timely basis.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 240.17Ad–22(d)(8).

[9] 15 U.S.C. 78q–1(b)(3)(I).

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 the filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site: *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_14_01.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–2014–01 and should be submitted on or before February 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–01107 Filed 1–21–14; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71310; File No. SR–MIAX–2014–01]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Quarterly Options Series Program To Eliminate the Cap on the Number of Additional Series That May Be Listed per Expiration Month for Each Quarterly Options Series in ETF Options

January 15, 2014.

Pursuant to the provisions of 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 January 13, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Rule 404 to eliminate the cap on the number of additional series that may be listed per expiration month for each Quarterly Option Series (''QOS'') in exchange-traded fund (''ETF'') options.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 is proposing to amend Exchange Rule 404 to eliminate the cap on the number of additional series that may be listed per expiration month for each QOS in ETF options.[3] This is a competitive filing that is based on proposals recently submitted by NYSE Arca, Inc. (''NYSE Acra'') and NYSE MKT LLC (''NYSE MKT'').[4] As set out in Exchange Rule 404.03, the Exchange may list QOS for up to five currently listed options classes that are options on ETFs. The Exchange may also list QOS on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules. Currently, for each QOS in ETF options that has been initially listed on the Exchange, the Exchange may list up to 60 additional series per expiration month.[5]

The Exchange is proposing to amend Rule 404.03(d) to make the treatment of QOS in ETF options consistent with the treatment of QOS on other options exchanges.[6] The Exchange believes that the proposed revision to the QOS Program would provide market participants with the ability to better tailor their trading to meet their investment objectives, including hedging securities positions, by permitting the Exchange to list additional QOS in ETF options that meet such objectives. The Exchange has observed that situations arise in which additional strike prices in smaller intervals would be valuable to investors. However, due to the cap on additional QOS series the Exchange cannot always provide these important at-the-money strikes. Elimination of the cap would remedy this issue.

Currently, the Exchange lists quarterly expiration options on ETFs, but the cap restricts the number of strikes on these options, which often results in a lack of strike continuity. For example, the Exchange lists quarterly expiration options on SPDR Gold Trust (''GLD''). On January 2, 2013, the Exchange could have initially listed December 31, 2013 quarterly expiration options (''December 2013 Quarterlies'') on GLD, which closed the previous trading day at $162.02, with initial strikes from $115 to $210, and additional strikes in $1 intervals from $131 to $189. But during 2013, GLD has closed at a range of $115.94 to $163.67 and is currently trading around $118. As a result of the cap, the Exchange could not offer December 2013 Quarterlies on GLD in $1 intervals within $10 of the closing price of GLD because the number of strikes would exceed the cap of 60 additional strikes. Consequently, the Exchange is not able to list important at-the-money strikes due to the cap on additional strikes. While the Exchange has the ability to delist strikes with no open interest so that it may list strikes that are closer to the money, delisting is not always possible. If all of the existing strikes have open interest, the Exchange cannot delist strikes so that it may list strikes closer to the money.

[3] A Quarterly Option Series is a series of an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day, and that expires at the close of business on the last business day of a calendar quarter. The Exchange lists series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. *See* Rule 404.03.

[4] *See* Securities Exchange Act Release Nos. 70855 (November 13, 2013) 78 FR 69493 (November 19, 2013) (SR–NYSEArca–2013–120); 70854 (November 13, 2013) 78 FR 69465 (November 19, 2013) (SR–NYSEMKT–2013–90).

[5] *See* Exchange Rule 404.03(d).

[6] *See* NYSE Arca Rule 6.4 Commentary .08(ii) and NYSE MKT Rule 903 Commentary .09(d).

But the Exchange is not subject to a similar cap on the number of additional monthly expiration options it can list on ETFs. So, for example, the Exchange can list additional monthly expiration options on GLD in $1 intervals from $85 to $178. Therefore, due to the cap, the Exchange cannot list, and an investor cannot structure an investment on a quarterly basis with the same granularity that can be achieved on monthly basis.

Similarly, the Exchange lists quarterly options on SPDR S&P 500 ETF (''SPY''), which during 2013 closed at a range of $145.55 to $173.05. Again, due to the cap, the Exchange cannot offer quarterly expiration options on SPY in $1 intervals above $170 because the number of additional strikes would exceed the cap of 60. Instead, the Exchange is forced to list quarterly expiration options on SPY at $5 intervals above $170, despite the fact that SPY has recently traded between $165 and $170. As such, if SPY would again increase to $170, then the Exchange would only be able to offer options with a strike price $5 away from the price of the underlying ETF due to the cap on additional strikes.

Elimination of the cap would also help market participants meet their investment objectives by providing expanded opportunities to roll ETF options into later quarters. For example, a market participant that holds one or more contracts in a QOS in an ETF put option that has a strike price of $120 and an expiration date of the last day of the third quarter may wish to roll that position into the fourth quarter. That is, the market participant may wish to close out the contracts set to expire at the end of the third quarter and instead establish a position in the same number of contracts in a QOS in a put on the same ETF with the same strike price of $120, but with an expiration date of the last day of the fourth quarter. Because of the cap on additional QOS in ETF options, however, the Exchange may not be able to list additional QOS in the ETF. Elimination of the cap, though, would allow the Exchange to meet the investment needs of market participants in such situations.

The Exchange believes that it possesses sufficient capacity to handle increased quote and trade reporting traffic that might be expected to result from listing additional QOS in ETF options.[7] In the Exchange's view, it would be inconsistent to prohibit the listing of additional QOS beyond a specified cap when each exchange independently purchases capacity to meet its quote and trade reporting traffic needs.[8]

Moreover, the Exchange has in place a quote mitigation plan that helps it maintain sufficient capacity to handle quote traffic.[9]

To help ensure that only active options series are listed, the Exchange also has in place procedures to delist inactive series. Exchange Rule 404.03(f) requires the Exchange to review QOS that are outside of a range of five strikes above and five strikes below the current price of the underlying ETF. Based on that review, the Exchange must delist series with no open interest in both the call and the put series having (i) a strike price higher than the highest price with open interest in the put and/or call series for a given expiration month, and (ii) a strike price lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b)[10] of the Act in general, and furthers the objectives of Section 6(b)(5)[11] of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market because it will expand the investment options available to investors and will allow for more efficient risk management. The Exchange believes that removing the cap on the number of QOS in ETF options permitted to be listed on the Exchange will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment and hedging decisions to their needs, and therefore, the proposal is designed to protect investors and the public interest. Additionally, by removing the cap, the proposed rule change will make the treatment of QOS in ETF options consistent with the treatment of QOS in index options on other option exchanges, thus resulting in similar regulatory treatment for similar options products.

While the expansion of the number of QOS in ETF options is expected to generate additional quote traffic, the Exchange believes that this increased traffic will be manageable and will not present capacity problems. As previously stated, the Exchange has in place a quote mitigation plan that helps it maintain sufficient capacity to handle quote traffic. To help ensure that only active options series are listed, Exchange procedures are designed to delist inactive series, ensuring that any additional quote traffic is a result of interest in active series.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that investors would benefit from the introduction of additional QOS in ETF options by providing investors with more flexibility to closely tailor their investment and hedging decisions to their needs. Additionally, Exchange procedures for delisting inactive series will ensure that only active series with sufficient investor interest will be made available and maintained on the Exchange.

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, the proposed rule change has become

[7] The SEC has relied upon an exchange's representation that it has sufficient capacity to support new options series in approving a rule amendment permitting the listing of additional option series. *See* Securities Exchange Act Release No. 57410 (Jan. 17, 2008), 73 FR 12483, 12484 (Mar. 7, 2008) (SR–CBOE–2007–96) (amendments to CBOE Rule 5.5(e)(3)) (''In approving the proposed rule change, the Commission has relied upon the Exchange's representation that it has the necessary systems capacity to support new options series that will result from this proposal'').

[8] *See* Securities Exchange Act Release No. 48822 (Nov. 21, 2003), 68 FR 66892 (Nov. 28, 2003) (SR–OPRA–2003–01) (requiring exchanges to acquire options market data transmission capacity independently, rather than jointly).

[9] *See* Exchange Rule 404A.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will allow the Exchange to make the treatment of QOS in ETF options consistent with the treatment of QOS in index options at other option exchanges. The proposal will also allow the Exchange to meet investor demand for an expanded number of QOS in ETF options, allowing investors to meet investment objectives, including hedging securities positions, currently unavailable because of the limited number of QOS in ETF options available. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.[14]

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–MIAX–2014–01 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–MIAX–2014–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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–MIAX–2014–01 and should be submitted on or before February 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–01106 Filed 1–21–14; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with 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.

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71309; File No. SR–NYSEArca–2013–127]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade Shares of Nine Series of the IndexIQ Active ETF Trust Under NYSE Arca Equities Rule 8.600

January 15, 2014.

On November 18, 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'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the IQ Long/Short Alpha ETF, IQ Bear U.S. Large Cap ETF, IQ Bear U.S. Small Cap ETF, IQ Bear International ETF, IQ Bear Emerging Markets ETF, IQ Bull U.S. Large Cap ETF, IQ Bull U.S. Small Cap ETF, IQ Bull International ETF and IQ Bull Emerging Markets ETF. On November 26, 2013, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on December 4, 2013.[4] The Commission received no comment letters on the proposed rule change.

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 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 clarifies (i) how certain holdings will be valued for purposes of calculating a fund's net asset value, and (ii) where investors will be able to obtain pricing information for certain underlying holdings.

[4] Securities Exchange Act Release No. 70954 (November 27, 2013), 78 FR 72955 (''Notice'').

[5] 15 U.S.C. 78s(b)(2).

sufficient time to consider the proposed rule change. The proposed rule change would permit the listing and trading of shares of the Funds, which intend to invest primarily in exchange-traded funds (''ETFs''), swap agreements, options contracts and futures contracts.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates March 4, 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–2013–127).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–01105 Filed 1–21–14; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

DEPARTMENT OF STATE

[Public Notice 8602]

Culturally Significant Objects Imported for Exhibition Determinations: ''Lost Kingdoms of Early Southeast Asia: Hindu-Buddhist Sculpture, 5th to 8th Century''

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, and Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the objects to be included in the exhibition, ''Lost Kingdoms of Early Southeast Asia: Hindu-Buddhist Sculpture, 5th to 8th Century,'' 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 Metropolitan Museum of Art, New York, New York, from on or about April 14, 2014, until on or about July 27, 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 Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: January 10, 2014.

Evan Ryan,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–01164 Filed 1–21–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8601]

Culturally Significant Objects Imported for Exhibition Determinations: ''Venice: The Golden Age of Art and Music''

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, and Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the objects to be included in the exhibition, ''Venice: The Golden Age of Art and Music,'' 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 Portland Art Museum, Portland, Oregon, from on or about February 15, 2014, until on or about May 11, 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 Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: January 10, 2014.

Evan Ryan,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–01166 Filed 1–21–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8600]

Shipping Coordinating Committee; Notice of Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 10:00 a.m. on Tuesday, February 25, 2014, at the offices of the Radio Technical Commission for Maritime Services (RTCM), 1611 N. Kent Street, Suite 605, Arlington, VA 22209. The primary purpose of the meeting is to prepare for the first session of the International Maritime Organization's (IMO) Sub-Committee on Ship Systems and Equipment to be held at the IMO Headquarters, United Kingdom, March 10–14, 2014.

Substantive agenda items to be considered include:

—Development of requirements for ships carrying hydrogen and compressed natural gas vehicles

—Development of amendments to SOLAS regulation II–1/40.2 concerning general requirements on electrical installations

—Smoke control and ventilation

—Development of amendments to SOLAS regulation II–2/20 and associated guidance on air quality management for ventilation of closed vehicle spaces, closed ro-ro and special category spaces

—Development of life safety performance criteria for alternative design and arrangements for fire safety (MSC/Circ. 1002)

—Development of a new framework of requirements for safety objectives and functional requirements for the approval of alternative design and arrangements for SOLAS chapters II–1 (parts C, D and E) and III

—Development of amendments to the LSA Code for thermal performance of immersion suits

—Development of amendments to the LSA Code for free-fall lifeboats with float-free capability

—Development of amendments to the 2009 MODU Code concerning lifeboat drills

—Revision of the *Recommendation on conditions for the approval of servicing stations for inflatable liferafts* (resolution A.761(18))

—Development of requirements for onboard lifting appliances and winches
—Considerations related to the double sheathed low-pressure fuel pipes for fuel injection systems in engines on crude oil tankers
—Development of amendments to the provisions of SOLAS chapter II–2 relating to secondary means of venting cargo tanks
—Development of amendments to the requirements for foam-type fire-extinguishers in SOLAS regulation II–2/10.5
—Consideration of IACS unified interpretations
—Biennial agenda and provisional agenda for SSE 2
—Any other business

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Mr. Randall Eberly, by email at *randall.eberly@uscg.mil,* by phone at (202) 372–1393, by fax at (202) 372–8379, or in writing at Commandant (CG–ENG–4), U.S. Coast Guard, 2703 Martin Luther King Jr Ave. SE., Stop 7509, Washington, DC 20593–7509 not later than February 18, 2014, 7 days prior to the meeting. Requests made after February 18, 2014, might not be able to be accommodated. RTCM Headquarters is adjacent to the Rosslyn Metro station. For further directions and lodging information, please see: *http://www.rtcm.org/visit.php.* Additional information regarding this and other IMO SHC public meetings may be found at: *www.uscg.mil/imo.*

Dated: January 13, 2014.

Marc Zlomek,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 2014–01162 Filed 1–21–14; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Engine Endurance Testing Requirements—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: The FAA assigned ARAC a new task to review existing engine endurance test requirements, assess its suitability for all engines, and consider an alternate endurance test and associated methods of compliance. The current regulations may not adequately address the technological advances found in modern engines, as related to the current engine endurance test. This notice informs the public of the new ARAC activity and solicits membership for the Engine Harmonization Working Group (EHWG).

FOR FURTHER INFORMATION CONTACT: Dorina Mihail, Rulemaking and Policy Branch, ANE–111, Engine and Propeller Directorate, FAA, 12 New England Executive Park, Burlington, Massachusetts, 01803, telephone (781) 238–7153, facsimile (781) 238–7199; email *dorina.mihail@faa.gov.*

SUPPLEMENTARY INFORMATION:

ARAC Task Acceptance

ARAC accepted the task and assigned the task to the EHWG, under the Transport Airplane and Engine (TAE) Subcommittee. The working group will serve as staff to ARAC and assist ARAC by providing advice and recommendations of the assigned tasks. ARAC must review and approve the working group's recommendation report before it will forward it to the FAA.

Background

The FAA established ARAC to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Aviation Safety, on the FAA's rulemaking activities. This includes obtaining advice and recommendations on the FAA's commitments to harmonize Title 14 of the Code of Federal Regulations (14 CFR) with appropriate foreign authorities' regulations. ARAC's objectives are to improve the development of the FAA's regulations by providing information, advice, and recommendations related to aviation issues.

The EHWG will provide advice and recommendations to ARAC on existing and alternate endurance tests and associated methods of compliance.

The engine endurance test is an accelerated severity test intended to demonstrate a minimum level of engine operability and durability within the approved engine ratings and operating limitations. The test running conditions cover the declared engine rating and operating limitations, but are not intended to simulate the expected in-service operation. To run the test at simultaneous speed and temperature limits, applicants may need to modify the test engine configuration and the required test sequence.

The current practice and accepted methods of compliance allow modifications to the test engine configuration and test sequence, provided certain conditions are met. Specifically, that the engine, as modified, still represents the durability and operating characteristics of the intended type design and complies with § 33.87 requirements. However, experience with past engine certifications shows that for some engines, those modifications are substantial enough that the engine is not conforming to its type design, thus affecting the test outcome. These difficulties occur because the required test in § 33.87 has not been updated to account for technological advances in gas turbine engines and in-service operational characteristics.

The endurance test requirements originated with the reciprocating engine and were later revised for single-shaft turbine engines with mechanical controls. The test running conditions were designed to match the engine design and operational characteristics during that time and have remained the same for the past 60 years. Today's engines have evolved by up to 10 times increased compression ratio and 40 times increased airflow. They incorporate advanced technologies that include three-shaft designs, high-bypass turbofans, sophisticated full authority digital electronic controls, and complex turbine cooling. Other technological advances provide in-service engine health monitoring, thus improving engine reliability and increased mean time on wing. Modern engine technologies allow up to 50% lower specific-fuel consumption and significant emissions and noise improvements.

Certification experience shows that, due to the complexity of modern engines, the modifications needed to run the required endurance test are substantial, greatly affecting the engine operating cycle and causing reduced airflow, less cooling, or increased temperatures. To compensate for these undesirable effects, applicants make additional engine modifications, such as modifying cooling circuits, grinding blade tips, or adding thermal barrier coating to blades. As a result of these modifications, it becomes increasingly difficult to show that the test engine conforms to the type design. The objective of the ARAC task is to evaluate whether the requirements for engine endurance testing should be revised by adding requirements for an alternate test.

The Task

The EHWG is to review and assess the standards and advisory material for 14 CFR 33.87, engine endurance test requirements as follows:

1. Develop an alternate endurance test that would allow an engine to be tested in the configuration representative of its type design, and

a. Maintain compliance with the intent, as well as the basic elements currently in § 33.87, including the ratings, operating limitations, and engine configuration.

b. The alternate test is to be equivalent to the test currently in § 33.87 with regards to demonstrating engine operability and durability, and is validated with engine data. The engine data must include experience, certification, and additional component and engine tests.

2. Develop and document recommended:

a. Methods of compliance, and

b. Rule changes, if considered necessary.

3. Review the current foreign requirements for engine endurance test and determine the need for harmonizing any new methodologies.

4. Provide initial qualitative and quantitative estimates of costs and benefits for any new methodologies.

5. Develop a report containing the recommendations for rulemaking or guidance material, or both, and explain the rationale and safety benefits for each proposed change.

6. The working group may be reinstated to assist the ARAC by responding to the FAA's questions or concerns after the recommendation report has been submitted.

The final ARAC recommendation report should include a summary of the overall work scope, conclusions, and rationale for all recommendations related to the above tasks. It should document both majority and minority positions on the findings, and the rationale for each position and reasons for any disagreement. Any disagreements should be documented, including the rationale for each position and the reasons for the disagreement.

Schedule

The recommendation report must be submitted to the FAA for review and acceptance no later than December 31, 2015.

Working Group Activity

The EHWG must comply with the procedures adopted by the ARAC. As part of the procedures, the working group must:

1. Conduct a review and analysis of the assigned tasks, including any related materials or documents.

2. Draft and submit a work plan for completion of the task, including the rationale supporting such a plan for TAE Subcommittee consideration.

3. Provide a status report at each TAE Subcommittee public meeting.

4. Draft and submit the recommendation report based on the review and analysis of the assigned tasks and any related materials or documents.

5. Present the recommendation at a TAE Subcommittee public meeting.

6. The TAE Subcommittee Chair will provide a status report at each ARAC public meeting and present the final recommendation to ARAC for review and approval. ARAC will forward the recommendation to the FAA.

Participation in the Working Group

The EHWG will be composed of technical experts having an interest in the assigned task. A working group member does not need to be a member representative of the ARAC. The FAA would like a wide range of members on the working group to ensure all aspects of the tasks are considered in development of the recommendations. However, the June 18, 2010 memorandum, ''*Lobbyists on Agency Boards and Commissions,*'' states that a member must not be a federally registered lobbyist who is subject to the registration and reporting requirements of the Lobbying Disclosure Act of 1995 (LDA) as amended, 2 U.S.C 1603, 1604, and 1605, at the time of appointment or reappointment to an advisory committee, and has not served in such a role for a two-year period prior to appointment. Therefore, the FAA will not select any person that is a registered lobbyist. For further information see the Office of Management and Budget final guidance on appointment of lobbyists to federal boards and commissions (76 FR 61756, October 5, 2011).

If you have expertise in the subject matter and wish to become a member of the working group, write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire. Describe your interest in the task and state the expertise you would bring to the working group. The FAA must receive all requests by February 11, 2014. The ARAC and the FAA will review the requests and advise you if they approve or disapprove your request.

If you are chosen as a member on the working group, you must represent your aviation community segment and actively participate in the working group by attending all meetings and providing written comments when requested to do so. You must devote the resources necessary to support the working group in meeting any assigned deadlines. You must keep your management, and those you may represent, advised of the working group activities and decisions to ensure that the proposed technical solutions do not conflict with the position of those you represent when the proposed recommendations are presented to the subcommittee and ARAC for approval. Once the working group has begun deliberations, they will not add or substitute members without the approval of the TAE Subcommittee Chair, FAA Representatives, including the Designated Federal Officer, and the working group.

The Secretary of Transportation determined that the ARAC formation and use is necessary, and in the public interest, in connection with the performance of duties imposed on the FAA by law.

ARAC meetings are open to the public. Meetings held by the EHWG will not be open to the public, except to individuals selected to participate based on interest and expertise. We will make no public announcement of working group meetings.

Issued in Washington, DC, on January 8, 2014.

Lirio Liu,

Designated Federal Officer, Aviation Rulemaking Advisory Committee.

[FR Doc. 2014–01125 Filed 1–21–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirteenth Meeting: RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems—Small and Medium Size

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

ACTION: Meeting Notice of RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems—Small and Medium Size.

SUMMARY: The FAA is issuing this notice to advise the public of the fourteenth meeting of the RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems—Small and Medium Size

DATES: The meeting will be held Feb 4–6, 2014 from 9 a.m.–5 p.m.

ADDRESSES: On Oct 1st, the meeting will be held at the Boeing Facility, 95–82 Building, 1200 Wilson Boulevard, Arlington, VA 22209 and on Oct 2–3rd, the meeting will be held at RTCA Headquarters, 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) 330–0662/(202) 833–9339, fax (202) 833–9434, or Web site at *http://www.rtca.org.* In addition, Jennifer Iversen may be contacted directly at email: *jiversen@rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 225. The agenda will include the following:

Tuesday, February 4

- Introductions and administrative items.
- Review agenda.
- Review and approval of summary from last Plenary meeting.
- Li-ion Current Events.
- Update TOR.
- Create plan for updating DO–311A, including working group meetings.
- Adjourn to Working Group to review/revise DO–311A.
- Review action items.

Wednesday, February 5

- Review agenda, other actions.
- Adjourn to Working Group to review/revise DO–311A.
- Review action items.

Thursday, February 6

- Review agenda, other actions.
- Review schedule for upcoming Plenaries (as needed), working group meetings.
- Establish agenda for the next Plenary.
- Adjourn to Working Group to review/revise DO–311A.
- Review action 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 15, 2014.

Paige Williams,

Management Analyst, NextGen, Business Operations Group, Federal Aviation Administration.

[FR Doc. 2014–01165 Filed 1–21–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Availability of Noise Compatibility Program for Chicago Rockford International Airport, Rockford, Illinois

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the updated noise exposure maps submitted by the Greater Rockford Airport Authority for the Chicago Rockford International Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR part 150 are in compliance with applicable requirements.

DATES: This notice is effective January 22, 2014, and applicable January 13, 2014. The public comment period ends February 14, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Hanson, Environmental Protection Specialist, CHI–603, Federal Aviation Administration, Chicago Airport District Office, 2300 East Devon Avenue, Des Plaines, IL 60018. Telephone number: 847–294–7354.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the updated noise exposure maps submitted for Chicago Rockford International Airport are in compliance with applicable requirements of Title 14 Code of Federal Regulations (CFR) part 150. Under 49 U.S.C. 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of 14 CFR part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the updated noise exposure maps and accompanying documentation submitted by Greater Rockford Airport Authority. The documentation that constitutes the ''noise exposure maps'' as defined in § 150.7 includes: Exhibit NEM–1, Existing (2013) Noise Exposure Map; Exhibit NEM–2, Future (2018) Noise Exposure Map; Table 2, Distribution of Average Daily Operations by Aircraft Type Existing (2013) Conditions; Exhibit 2, INM Jet Departure Flight Tracks; Exhibit 3, INM Jet Arrival Flight Tracks; Exhibit 4, INM Prop Departure Flight Tracks; Exhibit 5, INM Prop Departure Flight Tracks; Exhibit 6, INM Touch-and-Go Flight Tracks; Exhibit 8, Existing (2013) Noise Exposure Contour Compared to (Previous) Future 2008 NEM/NCP (from 2003 Study); Exhibit 11, Existing (2013) Noise Exposure Contour compared to Future (2018) Noise Exposure Contour; Table 14, Population, Housing, and Noise-Sensitive Facilities Exposed to Various Noise Levels 2018 Noise Exposure; Table 15, Supplemental Grid Analysis Report-Existing (2013) NEM Compared to Future (2018) NEM, and; Exhibit F–1, Existing Noise-Sensitive Facilities and Historic Properties.

The FAA has determined that these updated noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on January 13, 2014. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of 14 CFR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve

questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 that the statutorily required consultation has been accomplished.

Copies of the full updated noise exposure map documentation and of the FAA's evaluation of the maps are available for examination, upon prior appointment during normal business hours, at the following locations:

Chicago Rockford International Airport, Greater Rockford Airport Authority, 60 Airport Drive, Rockford, Illinois 61109.

Federal Aviation Administration, Chicago Airports District Office, 2300 E. Devon, Suite 320, Des Plaines, IL 60018.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Des Plaines, IL, January 13, 2014.

James G. Keefer,

Manager, Chicago Airports District Office, FAA Great Lakes Region.

[FR Doc. 2014–01060 Filed 1–21–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. DOT–NHTSA–2013–0142]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves labeling information from manufacturers of brake hoses, end fittings, and brake hose assemblies. The information to be collected will be used to and/or is necessary to satisfy the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 106, Brake Hoses. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995, Public Law 104–13.

DATES: Written comments should be submitted by March 24, 2014.

ADDRESSES: You may submit comments [identified by Docket No. DOT–NHTSA–2013–0142] through one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail or Hand Delivery: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joshua Fikentscher, Office of Vehicle Safety Compliance (NVS–120), National Highway Traffic Safety Administration, West Building—4th Floor—Room W43–467, 1200 New Jersey Avenue SE., Washington, DC 20590. Mr. Fikentscher's phone number is (202) 366–1688.

Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2127–0052.

Title: Brake Hose Manufacturers Identification.

Form Numbers: None.

Type of Review: Extension of a currently approved information collection.

Background: 49 U.S.C. 30101 et seq., as amended (''the Safety Act''), authorizes NHTSA to issue FMVSSs. The Safety Act mandates that in issuing any FMVSSs, the agency is to consider whether the standard is reasonable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed. Using this authority, FMVSS No. 106, Brake Hoses, was issued. This standard specifies labeling and performance requirements which apply to all manufacturers of brake hoses and brake hose end fittings, and to those who assemble brake hoses. Prior to assembling or selling brake hoses, these entities must register their identification marks with NHTSA to comply with the labeling requirements of this standard. In accordance with the Paperwork Reduction Act, the agency must obtain OMB approval to continue collecting labeling information. Currently, there are 1,944 manufacturers of brake hoses and end fittings, and brake hose assemblers, registered with NHTSA. However, only approximately 20 respondents annually request to have their symbol added to or removed from the NHTSA database. To comply with this standard, each brake hose manufacturer or assembler must contact NHTSA and state that they want to be added to or removed from the NHTSA database of registered brake hose manufacturers. This action is usually initiated by the manufacturer with a brief written request via U.S. mail, facsimile, an email message, or a telephone call. Currently, a majority of the requests are received via U.S. mail and the follow-up paperwork is conducted via facsimile, U.S. mail, or electronic mail. The estimated cost for complying with this regulation is $100 per hour. Therefore, the total annual cost is estimated to be $3,000 (time burden of 30 hours x $100 cost per hour).

Respondents: Business or other for profit.

Number of Respondents: 20.

Number of Responses: 20.

Total Annual Burden: 30 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

David Hines,

Director, Office of Crash Avoidance Standards.

[FR Doc. 2014–01147 Filed 1–21–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1087 (Sub-No. 2X)]

Grenada Railway LLC—Abandonment Exemption—in Yalobusha County, Mississippi

Grenada Railway LLC (GRYR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon its Water Valley Branch railroad line between milepost 604.0 at Water Valley Junction and milepost 614.42 at Bruce Junction, a distance of 10.42 miles, in Yalobusha County, Miss. The line traverses United States Postal Service Zip Codes 38965 and 38915, and includes the Water Valley and Bruce Stations.

GRYR has certified that no local or overhead traffic has moved over the line for at least two years and that no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period. GRYR further has certified that the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 21, 2014, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 3, 2014. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 11, 2014, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to GRYR's representative: Fritz R. Kahn, Fritz R. Kahn, P.C., 1919 M Street NW., (7th Floor), Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

GRYR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by January 27, 2014. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), GRYR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by GRYR's filing of a notice of consummation by January 22, 2015, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Dated: January 15, 2014.

By the Board,

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–01130 Filed 1–21–14; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600.

FEDERAL REGISTER

Vol. 79 Wednesday,

No. 14 January 22, 2014

Part II

Federal Reserve System

12 CFR Part 234

Financial Market Utilities; Proposed Rule

FEDERAL RESERVE SYSTEM

12 CFR Part 234

[Regulation HH; Docket No. R–1477]

RIN AD–7100 AE–09

Financial Market Utilities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'' or ''Act''), the Board of Governors of the Federal Reserve System (Board) is required to prescribe risk-management standards governing the operations related to the payment, clearing, and settlement activities of certain financial market utilities that are designated as systemically important (designated FMUs) by the Financial Stability Oversight Council (Council). The Board is proposing to amend the risk-management standards currently in the Board's Regulation HH by replacing the current risk-management standards with a common set of risk-management standards applicable to all types of designated FMUs. These new risk-management standards are based on the *Principles for Financial Market Infrastructures* (PFMI), which were developed by the Committee on Payment and Settlement Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO) and published in April 2012.

DATES: Comments on this notice of proposed rulemaking must be received by March 31, 2014.

ADDRESSES: You may submit comments, identified by Docket No. R–1477 and RIN No. 7100 AE–09, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include the docket number in the subject line of message.
- *Facsimile:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Jennifer A. Lucier, Deputy Associate Director (202) 872–7581, Kathy C. Wang, Senior Financial Services Analyst (202) 872–4991, or Emily A. Caron, Senior Financial Services Analyst (202) 452–5261, Division of Reserve Bank Operations and Payment Systems; Christopher W. Clubb, Special Counsel (202) 452–3904 or Kara L. Handzlik, Counsel (202) 452–3852, Legal Division; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

A. Title VIII of the Dodd-Frank Act

Title VIII of the Dodd-Frank Act, titled the ''Payment, Clearing, and Settlement Supervision Act of 2010,'' was enacted to mitigate systemic risk in the financial system and to promote financial stability, in part, through an enhanced supervisory framework for designated FMUs.[1] Section 803(6) of the Act defines an FMU as a ''person that manages or operates a multilateral system for the purposes of transferring, clearing, or settling payments, securities, or other financial transactions among financial institutions or between financial institutions and the person.'' Pursuant to section 804 of the Act, the Council is required to designate those FMUs that the Council determines are, or are likely to become, systemically important.[2] Such a designation by the Council makes an FMU subject to the supervisory framework set out in Title VIII of the Act.

The supervisory framework established under Title VIII includes risk-management standards for designated FMUs that take into consideration relevant international standards and existing prudential requirements. Section 805(a)(1)(A) of the Act requires the Board to prescribe risk-management standards governing the operations related to the payment, clearing, and settlement activities of certain designated FMUs.[3] In addition, section 805(a)(2) of the Act grants the U.S. Commodity Futures Trading Commission (CFTC) and the U.S. Securities and Exchange Commission (SEC) the authority to prescribe regulations containing risk-management standards for a designated FMU that is, respectively, a derivatives clearing organization (DCO) registered under section 5b of the Commodity Exchange Act or a clearing agency registered under section 17A of the Securities Exchange Act of 1934.

As set out in section 805(b) of the Act, the applicable risk-management standards must (1) promote robust risk management, (2) promote safety and soundness, (3) reduce systemic risks, and (4) support the stability of the broader financial system. Further, under section 805(c), the risk-management standards may address areas such as (1) risk-management policies and procedures, (2) margin and collateral requirements, (3) participant or counterparty default policies, (4) the ability to complete timely clearing and settlement of financial transactions, (5) capital and financial resource requirements for designated FMUs, and (6) other areas that are necessary to achieve the objectives and principles for risk-management standards in section 805(b). Designated FMUs are required to conduct their operations in compliance with the applicable risk-management standards. Compliance is examined by the federal agency that has primary jurisdiction over a designated FMU under federal banking, securities, or commodity futures laws (the ''Supervisory Agency'').[4]

B. Risk-Management Standards for Designated Financial Market Utilities

On July 30, 2012, the Board adopted Regulation HH to implement, among other things, the statutory provisions under section 805(a)(1)(A) of the Dodd-Frank Act.[5] Regulation HH established two sets of risk-management standards for certain designated FMUs: One set of

[1] The Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376, was signed into law on July 21, 2010.

[2] For these purposes, section 803(9) of the Dodd-Frank Act defines ''systemically important'' and ''systemic importance'' as a situation in which the failure of or disruption to the functioning of an FMU could create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the financial system of the United States. 12 U.S.C. 5462(9).

[3] Currently, two of the eight FMUs that have been designated by the Council are subject to the risk-management standards promulgated by the Board under section 805(a)(1)(A)—The Clearing House Payments Company, L.L.C., on the basis of its role as operator of the Clearing House Interbank Payments System, and CLS Bank International.

[4] The Act's definition of ''Supervisory Agency'' is codified at 12 U.S.C. 5462(8).

[5] 12 CFR part 234.

risk-management standards for designated FMUs that operate a payment system (§ 234.3(a)) and another set for designated FMUs that operate a central securities depository or a central counterparty (§ 234.4(a)).[6] The Regulation HH standards do not apply to designated FMUs for which the CFTC or the SEC is the Supervisory Agency.[7] In adopting Regulation HH, the Board considered relevant international standards as well as the Board's *Federal Reserve Policy on Payment System Risk* (PSR policy).[8]

As noted in the preamble to the final rule for Regulation HH, the CPSS and IOSCO finalized the PFMI in April 2012. The Board also noted in the preamble that it anticipated reviewing the PFMI, consulting with other appropriate agencies and the Council, and seeking public comment on the adoption of revised standards for designated FMUs based on the PFMI.

The PFMI updated, harmonized, strengthened, and replaced the previous international risk-management standards for payment systems that are systemically important, central securities depositories, securities settlement systems, and central counterparties.[9] The PFMI addresses areas such as legal risk, governance, credit and liquidity risks, operational risk, and general business risk.[10] It sets forth 24 principles, each with (1) a headline standard that frames the overall risk-management objective of the principle, (2) a list of key considerations that elaborate on the headline standard, and (3) accompanying explanatory notes that discuss the objective and rationale of the principle and provide additional guidance on how the principle may be implemented.

The Board believes that the risk-management standards in Regulation HH should be revised in consideration of the PFMI. The PFMI establishes an important framework for promoting sound risk management in payment, clearing, and settlement systems and financial stability more broadly. The report reflects more than a decade of experience with international risk-management standards for these types of systems, important lessons learned from the financial crisis, and other relevant policy work by the international standard-setting bodies. As described in more detail below, risk-management standards based on the PFMI may improve upon the standards currently in Regulation HH and will further promote the objectives of the risk-management standards for designated FMUs set out in section 805(b) of the Dodd-Frank Act.

In addition, the PFMI is widely recognized as the most relevant set of international risk-management standards for payment, clearing, and settlement systems. The Financial Stability Board (FSB), which includes U.S. authorities, has endorsed the PFMI and has replaced the previous sets of risk-management standards with the PFMI in its Key Standards for Sound Financial Systems.[11] In addition, the Basel Committee on Banking Supervision considers the application of the PFMI as an important factor in determining capital charges for bank exposures to central counterparties related to over-the-counter derivatives, exchange-trade derivatives, and securities financing transactions.[12]

The Board believes that the implementation of risk-management standards based on the PFMI by the relevant payment, clearing, and settlement systems and their regulators, both domestically and internationally, can help promote the safety and efficiency of these systems and financial stability more broadly. Implementation also supports the initiatives of the Group of Twenty Finance Ministers and Central Bank Governors (G20) and the FSB to strengthen core financial infrastructures and markets around the world.[13] Widespread implementation also reduces potential conflicts among domestic and foreign authorities regarding prudential requirements for FMUs, and provides a more consistent framework among relevant domestic and foreign authorities for assessing the risks and risk management of FMUs with cross-market, cross-border, or cross-currency operations. Since April 2012, many central banks and market regulators have taken steps to incorporate the PFMI into their respective legal and regulatory frameworks that apply to systemically important financial market infrastructures.[14]

II. Explanation of Proposed Rules

The Board proposes to amend Regulation HH by replacing the existing risk-management standards with a set of standards based on the PFMI and making conforming changes to the definitions. In developing the proposal, the Board has considered the PFMI as the relevant international standards applicable to payment, clearing, and settlement systems. In implementing the proposed revisions to Regulation HH, the Board anticipates using the PFMI as a reference as it establishes its supervisory planning and analysis tools for each designated FMU for which it is the Supervisory Agency.

The Board requests comment on all aspects of the proposed rules. In addition, the Board requests comment on specific questions set out with respect to certain of the risk-management standards as discussed below. Where possible, commenters should provide both quantitative data and detailed analysis in their comments, particularly with respect to suggested alternatives to the proposed standards. Commenters should also explain the rationale for their suggestions.

[6] At the time of the rulemaking, the Board acknowledged that most designated FMUs that operate as central securities depositories or central counterparties would be subject to the risk-management standards promulgated by the CFTC or SEC. The Board, however, adopted standards for designated FMUs that operate as central securities depositories, central counterparties, or both, to address the event that a designated FMU operates as one of the two types of FMUs and is not required to register as derivatives clearing organization or a clearing agency with the CFTC or SEC, respectively.

[7] 12 CFR 234.1.

[8] The relevant international standards were the 2001 Committee on Payment and Settlement Systems (CPSS) report on the *Core Principles for Systemically Important Payment Systems,* the 2001 CPSS and the Technical Committee of the International Organization of Securities Commissions (IOSCO) report on the *Recommendations for Securities Settlement Systems,* and the 2004 CPSS–IOSCO report on the *Recommendations for Central Counterparties.* The Board previously incorporated these international standards into its PSR policy.

[9] The PFMI also establishes minimum requirements for trade repositories, which have emerged internationally as an important category of financial market infrastructure. The term ''financial market utility'' as defined in Title VIII of the Dodd-Frank Act excludes trade repositories.

[10] The PFMI reflects broad market input from FMUs, their participants, authorities, and others. A consultative version of the PFMI was published in March 2011. CPSS and IOSCO received 120 comment letters on the consultative version. All designated FMUs, as well as many of their major participants, provided comments on the consultative report.

[11] The FSB is an international forum that was established to develop and promote the implementation of effective regulatory, supervisory, and other financial sector policies. The FSB includes the U.S. Department of the Treasury, the Board, and the SEC. For the FSB's Key Standards for Sound Financial Systems, see *http://www.financialstabilityboard.org/cos/key_standards.htm.*

[12] See Basel Committee on Banking Supervision (BCBS), interim rules on *Capital Requirements for Bank Exposures to Central Counterparties,* July 2012, *http://www.bis.org/publ/bcbs227.pdf* and BCBS, *Capital Treatment of Bank Exposures to Central Counterparties,* consultative document, June 2013 *http://www.bis.org/publ/bcbs253.pdf.*

[13] See, G20 Declaration on Strengthening the Financial System (April 2009), *http://www.treasury.gov/resource-center/international/g7-g20/Documents/London%20April%202009%20Fin_Deps_Fin_Reg_Annex_020409_-_1615_final.pdf.*

[14] For an overview of how the PFMI is being implemented by different authorities around the world, see CPSS–IOSCO, *Implementation Monitoring of PFMIs—Level 1 Assessment Report,* August 2013.

A. Proposed § 234.2—Definitions

The Board proposes to amend Regulation HH § 234.2 by revising three definitions, adding six definitions, and deleting one definition. These proposed amendments constitute conforming changes or provide clarity with respect to the proposed revisions to the risk-management standards.

Central counterparty. The Board proposes to revise the definition of ''central counterparty'' to describe more accurately the nature of the relationship between the central counterparty and the original counterparties with respect to a particular trade. The existing definition, ''an entity that interposes itself between the counterparties to trades, acting as the buyer to every seller and the seller to every buyer,'' is being revised to read, ''an entity that interposes itself between the counterparties to contracts traded in one or more financial markets, becoming the buyer to every seller and the seller to every buyer.''

Designated financial market utility. The Board proposes to revise the definition of ''designated financial market utility'' for clarity regarding designation rescission. The existing definition, ''a financial market utility that the [Council] has designated under section 804 of the Dodd-Frank Act'' is being revised to read, ''a financial market utility that is currently designated by the [Council] under section 804 of the Dodd-Frank Act.'' Under section 804(b) of the Act, a designated FMU may have its designation rescinded if the Council determines the designated FMU no longer meets the standards for systemic importance. The proposed revision is intended to clarify that Regulation HH applies only to FMUs with designations that are currently effective. If the Council rescinds a designation of an FMU, the FMU is no longer subject to the provisions of Title VIII of the Act or any rules or orders prescribed under Title VIII, including the risk-management standards set out in Regulation HH.

Central securities depository. The Board proposes to revise the definition of ''central securities depository.'' The existing definition, ''an entity that holds securities in custody to enable securities transactions to be processed by means of book entries or an entity that enables securities to be transferred and settled by book entry either free of or against payment,'' is being revised to read, ''an entity that provides securities accounts and central safekeeping services.'' This revision reflects a narrower set of functions that a central securities depository can provide and better distinguishes this type of FMU from a ''securities settlement system,'' which will be covered by a new term as described below.

Securities settlement system. The Board proposes to add the term ''securities settlement system,'' which means ''an entity that enables securities to be transferred by book entry and allows transfers of securities free of or against payment.'' The term ''securities settlement system'' was previously embedded in the Regulation HH definition for ''central securities depository'' because a central securities depository typically also performs the securities settlement function. The Board proposes this separation of the two functions—central securities depositories and securities settlement systems—in order to accommodate any systems in which the central securities depository does not also operate a securities settlement system. Nonetheless, the Board recognizes that one entity can perform both functions and satisfy both definitions.

Backtest and stress test. The Board proposes to add the terms ''backtest'' as used in proposed § 234.3(a)(6) (Margin) and ''stress test'' as used in proposed § 234.3(a)(4) (Credit risk) and proposed § 234.3(a)(7) (Liquidity risk). Under the proposal, ''backtest'' is defined as ''the *ex post* comparison of realized outcomes with margin model forecasts to analyze and monitor model performance and overall margin coverage.'' ''Stress test'' is defined as ''the estimation of credit or liquidity exposures that would result from the realization of potential stress scenarios, such as extreme price changes, multiple defaults, and changes in other valuation inputs and assumptions.'' These proposed definitions provide further clarity to designated FMUs with regard to compliance with the above standards.

Recovery and wind-down. The Board proposes to add the terms ''recovery'' and ''wind-down,'' used in proposed § 234.3(a)(3) (Framework for the comprehensive management of risks) and § 234.3(a)(15) (General business risk). Under the proposal, ''recovery'' is defined as ''the actions of a designated financial market utility consistent with its rules, procedures, and other *ex ante* contractual arrangements, to address any uncovered credit loss, liquidity shortfall, capital inadequacy, or business, operational or other structural weakness, including the replenishment of any depleted prefunded financial resources and liquidity arrangements, as necessary to maintain the designated financial market utility's viability as a going concern.'' The proposed definition of ''recovery'' is for purposes of proposed § 234.3(a)(3) and (15) only and not in the context of business continuity management under proposed § 234.3(a)(17). The Board proposes to define ''wind-down'' as ''the actions of a designated financial market utility to effect the permanent cessation, sale, or transfer of one or more of its critical operations or services.''

Links. The Board proposes to add the term ''link'' as used in proposed § 234.3(a)(20) (Links to other financial market utilities). For the purposes of § 234.3(a)(20), ''link'' is defined as ''a set of contractual and operational arrangements between two or more central counterparties, central securities depositories, or securities settlement systems that connect them directly or indirectly, such as for the purposes of participating in settlement, cross margining, or expanding their services to additional instruments and participants.''

Payment system. The Board proposes to remove the definition of ''payment system'' from Regulation HH because the term is neither used in the proposed rule nor used in any other section of Regulation HH. The term ''payment system'' is currently included in Regulation HH because there is list of risk-management standards for payment systems in § 234.3 that is separate from the list of standards for central securities depositories and central counterparties in § 234.4. Under the proposed rule, there would be only one list of standards for all types of designated FMUs, so the separate term is no longer necessary.

The Board specifically requests comment on whether the proposed definitions are clear and sufficiently detailed and whether additional definitions are needed to implement the proposed rules.

B. Proposed § 234.3—Standards for Designated Financial Market Utilities

As noted above, the Board proposes to replace the two current sets of standards under §§ 234.3(a) and 234.4(a) with one set of standards for all types of designated FMUs under revised § 234.3(a). In certain cases where proposed standards would only apply to a particular type of designated FMU, the type of designated FMU is specified in the proposed standard.

The Board believes the proposed revisions, which reflect the new international standards in the PFMI, improve the current risk-management standards under Regulation HH and further the objectives in section 805(b) of the Dodd-Frank Act. Additionally, in considering the PFMI, the proposed

revisions reflect the most recent and relevant views on comprehensive risk management by FMUs. Furthermore, adopting a common set of standards across all types of designated FMUs will help remove any confusion that can be caused by perceived inconsistencies in the wording in two similar sets of requirements set out in the same regulation.

The Board, however, recognizes that certain proposed revisions represent new or heightened requirements relative to the baseline requirements established under the current set of risk-management standards. The Board also understands the need to weigh the risk-reduction benefits of and any burden that may be imposed by a particular rulemaking. Among other things, the Board has compared the proposed standards with the baseline standards under current Regulation HH to identify and analyze potential incremental burden, and is considering establishing different effective dates for certain proposed standards that may require additional time for a designated FMU to implement.

Comparison to baseline requirements under current Regulation HH. Consistent with current Regulation HH and the Board's longstanding approach in its supervision and oversight of FMUs, the proposed standards generally employ a flexible, principles-based approach to permit a designated FMU to employ a cost-effective method for compliance, so long as the method chosen achieves the risk-mitigation goals of the standard. In addition, the standards are intended to permit the risk-management goals to be pursued in light of evolving market conditions, technology, and risk-management techniques and systems. In several cases, however, the Board proposes explicit minimum requirements, including minimum frequencies for testing requirements and methods of calculating a minimum level of financial resources, which are drawn from PFMI key considerations and explanatory notes. The Board selected explicit minimum requirements that the Board believes a designated FMU must be able to meet in order to achieve the overall objective of a particular standard. Although some of these additions constitute new or heightened requirements relative to the current requirements in Regulation HH, many of the additions represent the Board's existing supervisory practice with respect to designated FMUs for which the Board is the Supervisory Agency.

In comparing the proposed revised risk-management standards to the current standards in Regulation HH, the Board has identified three broad types of revisions: (1) Those that essentially carry over a current standard under Regulation HH; (2) those that establish a standard that is new to Regulation HH, but represent an expectation that is a prudential objective of the Board's current supervisory process or a specific Board-imposed requirement for a particular designated FMU; and (3) those that establish a standard that is new or heightened to both Regulation HH as well as either the current supervisory process or a specific Board-imposed requirement for a particular designated FMU.[15] The Board recognizes that the incremental burden associated with each type of proposed revision may vary by designated FMU.

A majority of the proposed revisions to § 234.3(a) are similar in content and application to existing Regulation HH standards. In these cases, differences between the current standard and the proposed standard generally result from conforming edits to harmonize the originally separate standards into one set of standards. These proposed standards include proposed § 234.3(a)(1) on legal basis, proposed § 234.3(a)(4)(i) on credit risk, proposed § 234.3(a)(8) on settlement finality, proposed § 234.3(a)(9) on money settlements, and proposed § 234.3(a)(18) on access and participation requirements. The Board does not anticipate that minor differences in wording of the rule text will impose any significant incremental burden on designated FMUs that are already in compliance with Regulation HH.

With respect to some other proposed revisions to § 234.3(a), although they establish a standard or parts thereof that is new to Regulation HH, the designated FMU may already meet the standard through the Board's current supervisory process or as a part of a specific Board-imposed requirement. These proposed revisions include paragraphs (a)(3)(i) and (ii) on the comprehensive management of risks, (a)(4)(ii) on credit risk, and (a)(7)(i)–(v) on liquidity risk. There may be minimal costs associated with demonstrating compliance with the proposed revision and incorporating it into any formal compliance documentation. The Board, however, does not anticipate this type of revision to impose significant burden.

Other proposed revisions to § 234.3(a) establish a standard or parts thereof that is new or heightened to both Regulation HH and the current supervisory process. These proposed revisions, depending on the designated FMU, may include proposed § 234.3(a)(3)(iii) on plans for recovery or orderly wind-down, proposed § 234.3(a)(15)(i) and (ii) on maintaining sufficient liquid net assets funded by equity and a viable capital plan, and proposed § 234.3(a)(19) on tiered participation arrangements, which the Board recognizes may impose costs on designated FMUs to implement. The costs can be viewed as a designated FMU's incremental expenses in establishing and maintaining the systems and procedures necessary to meet the standards over and above the risk-management measures it has currently in place to comply with the current Regulation HH standards or would have otherwise adopted for business reasons. If these costs are passed on to a designated FMU's participants, they can take the form of higher transaction costs and margin or collateral costs. These costs should be weighed against the societal benefit of stability in the financial system and the economy more broadly.

These new standards are meant to help achieve the financial stability and systemic risk-reduction objectives of Title VIII of the Act. As such, the key benefits of these proposed standards are in minimizing the probability of recurrent financial crises and avoiding events in which firm-level distress leads to a market-wide disruption or even an economic recession. Such benefits are difficult to quantify, because it would require the computation of the probability of a crisis with and without regulatory change. Such computations generally cannot produce credible figures. To the extent possible, the Board provides instead its qualitative reasons for proposing requirements that may impose an incremental cost, including its explanation of the importance of these requirements to risk management and systemic-risk reduction. The Board provides this explanation in the discussion for each standard below.

Effective and compliance dates. The Board recognizes that certain new or heightened requirements may require more time for designated FMUs to implement and achieve compliance. Any delay in implementation, however, must be balanced against the risks presented to the financial system during the period that a designated FMU is not required to comply with an applicable risk-management standard. As discussed below, the Board therefore is

[15] The Board may have additional statutory authority over a particular designated FMU that is subject to Regulation HH, which would allow the Board to apply other requirements or conditions on the FMU in those contexts. For example, the Board may set conditions on an FMU's membership in the Federal Reserve System under the Federal Reserve Act.

considering different compliance dates to provide sufficient lead time for certain new or heightened requirements.

The Board is proposing that the requirements proposed in § 234.3(a) become effective and require compliance 30 days from the date the final rule is published in the **Federal Register,** with the exception of establishing plans for recovery or orderly wind-down, set forth in proposed § 234.3(a)(3)(iii); addressing uncovered credit losses, set forth in proposed § 234.3(a)(4)(vi); addressing liquidity shortfalls, set forth in proposed § 234.3(a)(7)(viii); maintaining sufficient liquid net assets funded by equity and a viable capital plan, set forth in proposed § 234.3(a)(15)(i) and (ii); managing risks arising in tiered participation arrangements, set forth in proposed § 234.3(a)(19); and providing comprehensive public disclosure, set forth in proposed § 234.3(a)(23)(iv). The Board is proposing that compliance with these proposed requirements be required six months from publication of the final rule.

The Board believes the revised risk-management standards as proposed, including any that may impose incremental burden to designated FMUs, achieve an appropriate balance between reducing systemic risk through enhanced risk management of designated FMUs and minimizing incremental burden associated with implementing any new or heightened requirements. With respect to the set of the risk-management standards set out in the proposed rule, the Board is specifically requesting comment on the following questions:

Q.0.1. Are the proposed standards reasonable risk-mitigation tools?

Q.0.2. Is six months from publication of the final rules appropriate for designated FMUs to comply with the proposed requirements identified above (that is, proposed §§ 234.3(a)(3)(iii), (a)(4)(vi), (a)(7)(viii), (a)(15)(i) and (ii), (a)(19), and (a)(23)(iv))? Should the Board propose alternative compliance dates for these or any other proposed requirements?

Q.0.3. What are the costs that are imposed by the proposed standards? Are there ways to meet the proposed standards other than those identified as examples in the discussion on each standard below?

Q.0.4. What are other benefits that are achieved by the proposed standards?

1. Legal Basis

Proposed § 234.3(a)(1) requires the designated FMU to have a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions.[16] A designated FMU's legal basis consists of its rules, procedures, and contracts as well as the legal framework (that is, applicable laws and regulations) under which it operates. The legal basis defines, or provides the foundation for relevant parties to define, the rights and obligations of the designated FMU, its participants, and other relevant stakeholders (such as customers of participants, custodian banks, settlement banks, and service providers). Most risk-management tools rely on assumptions regarding the manner and time at which these rights and obligations arise through the designated FMU's operations. Sound and effective risk management, therefore, is dependent on the enforceability of these rights and obligations. If the legal basis for a designated FMU's activities and operations is inadequate or uncertain, the designated FMU, its participants, and their customers may face unexpected or unmanageable credit or liquidity risks, which may also create or amplify systemic risks.

While the Board acknowledges that an FMU cannot control or dictate its governing laws or regulations, a designated FMU must take steps to manage its legal risk within this environment, such as by conducting legal due diligence to ensure that its rules, procedures, and contractual provisions are consistent with and enforceable under the legal framework in each applicable jurisdiction. In particular, these rules, procedures, and contracts should be clear regarding material aspects of the designated FMU's activities, such as settlement finality, netting arrangements, and default procedures. If a designated FMU operates across multiple jurisdictions, it must confirm the legal basis for all material aspects of its activities in all relevant jurisdictions to mitigate legal risks.

A designated FMU must be able to articulate, in a clear and understandable manner, its compliance with applicable laws and regulations and the enforceability of its rules, procedures, or contracts under those law and regulations. When appropriate, a designated FMU may need to obtain well-reasoned and independent legal opinions or analyses on the material aspects of its activities. Further, when evaluating the enforceability of its rules and procedures, a designated FMU may need to consider different scenarios, such as implementation of its plans for recovery or orderly wind-down, the insolvency or resolution of a participant, and the potential for conflict-of-laws issues, and must take steps to mitigate any identified legal risks.

2. Governance

Proposed § 234.3(a)(2) sets out the requirements that apply to a designated FMU's governance arrangements.[17] Governance is the set of relationships among the designated FMU's stakeholders, including its owners, board of directors (or an equivalent body), management, participants, and other relevant parties (such as customers of participants, other interdependent FMUs, and the broader market). Governance arrangements define the structure under which the designated FMU's board of directors and management operate.

Sound governance is essential to achieving comprehensive and effective risk management at a designated FMU. The way in which a designated FMU's governance arrangements are structured, including the definition of its lines of authority, responsibility, and accountability, affects the fundamental decisionmaking within the designated FMU, including decisionmaking involving risk management. Furthermore, governance arrangements that promote sound risk-management decisions and practices, in turn, help provide a basis for compliance with the other risk-management standards in Regulation HH. For these reasons, effective, accountable, and transparent governance arrangements are critical to the effective risk management of a designated FMU.

Under proposed § 234.3(a)(2)(i), a designated FMU must establish and document clear and transparent governance arrangements. Clarity and transparency in a designated FMU's governance arrangements promote accountability by providing relevant stakeholders with the information necessary to understand how decisions are made and what the chosen course of action is intended to accomplish. Key components of an FMU's governance arrangements that must be clear and transparent include the (a) role and composition of the board and any board committees, (b) senior management structure, (c) reporting lines between management and the board, (d)

[16] For similar corresponding standards under current Regulation HH, see § 234.3(a)(1) for payment systems and § 234.4(a)(1) for central securities depositories and central counterparties.

[17] For similar corresponding standards under current Regulation HH, see § 234.3(a)(10) for payment systems and § 234.4(a)(8) for central securities depositories and central counterparties.

ownership structure, (e) internal governance policy, (f) design of risk-management and internal controls, (g) procedures for the appointment of board members and senior management, and (h) processes for ensuring performance accountability.

Under proposed § 234.3(a)(2)(ii) and (iii), a designated FMU must develop governance arrangements that promote the safety and efficiency of its operations and support the stability of the broader financial system and other relevant public interest considerations. The stability of the financial system is an important public interest consideration for all designated FMUs. Certain designated FMUs may have other relevant public interest considerations, such as fostering fair and efficient markets, market transparency, and investor protection. The Board can provide guidance as needed, through ongoing dialogue during the supervisory process, to assist a designated FMU in identifying other public interests that are relevant to its operations.

Further, proposed § 234.3(a)(2)(iii) requires a designated FMU to develop governance arrangements that support the legitimate interests of relevant stakeholders. These stakeholders include the owners of the FMU, participants of the FMU, and participants' customers. Although the mechanisms for involving stakeholders may depend on the type of stakeholder and the particular designated FMU, in general, the involvement of relevant stakeholders in the designated FMU's governance processes, particularly in the determination of the FMU's risk tolerance, the formal objective-setting process, the design of its risk-management framework, and the strategic decisionmaking process may enhance the effectiveness of the FMU's overall risk management.

In addition, proposed § 234.3(a)(2)(iv)(A) and (B) require the designated FMU to define the structure under which its board and management operate by setting out their responsibilities and defining how they will interact. Proposed § 234.3(a)(2)(iv)(A) requires a designated FMU to ensure that its governance arrangements provide clear and direct lines of responsibility and accountability, and proposed § 234.3(a)(2)(iv)(B) requires that the board of directors and senior management have roles and responsibilities that are clearly specified. These elements must be clear, because the board of directors and senior management are ultimately responsible for managing a designated FMU's business and operations.

Proposed § 234.3(a)(2)(iv)(C) and (D) address the composition of the board of directors. Proposed § 234.3(a)(2)(iv)(C) requires that the designated FMU's governance arrangements be designed to ensure its board consists of suitable individuals with appropriate skills to fulfill its multiple roles identified under proposed § 234.3(a)(2)(iv)(B). For example, such arrangements may include a process to identify and regularly review the desired set of skills and experience for the board as a whole and for individual board members. Such arrangements may also include processes and procedures for recruiting board members. Proposed § 234.3(a)(2)(iv)(D) requires that the board include a majority of individuals who are not executives, officers, or employees of the designated FMU or an affiliate of the designated FMU; such individuals may offer different perspectives and can help strengthen the board's decisionmaking process.[18] [19]

Proposed § 234.3(a)(2)(iv)(E) requires the board to establish policies and procedures to identify, address, and manage board member conflicts of interest and to review the performance of the board as a whole and of the individual members on a regular basis. Proposed § 234.3(a)(2)(iv)(F) requires the board to establish a clear, documented risk-management framework that includes the designated FMU's risk-tolerance policy, assigns responsibilities and accountability for risk decisions, and addresses decisionmaking in crises and emergencies.

Under proposed § 234.3(a)(2)(iv)(G), governance arrangements must be designed to ensure that the designated FMU's senior management has the appropriate experience, skills, and integrity necessary to discharge operational and risk-management responsibilities. For example, the arrangements may include a process to identify and regularly review the desired set of skills and experience for the individual senior management positions. With respect to ensuring the integrity of senior management, a designated FMU may establish rules of conduct, provide ethics guides and training, and conduct background checks.

Proposed § 234.3(a)(2)(iv)(H) and (I) address the important role that the risk-management and internal audit functions serve in a designated FMU. A designated FMU must have governance arrangements designed to ensure that its risk-management and internal audit functions have sufficient authority, resources, independence, and access to the board of directors to achieve risk-management objectives. In addition, the reporting lines for risk management must be clear and separate from those for other operations of the designated FMU and there must be an additional direct reporting line to a non-executive director on the board via a chief risk officer (or equivalent). Further, the risk-management and internal audit functions must each be overseen by a committee, although not necessarily the same committee, of the board of directors. The committee responsible for advising the board with respect to the designated FMU's risk management or for overseeing the audit function must be chaired by a sufficiently knowledgeable individual who is independent of the designated FMU's senior management and be composed of a majority of members who are non-executive members.

Finally, proposed § 234.3(a)(2)(iv)(J) requires that the designated FMU's governance arrangements be designed to ensure that major decisions of the board of directors are clearly disclosed to relevant stakeholders, including the designated FMU's owners, participants, and participants' customers, and, where there is a broad market impact, the public. Major decisions include those that would affect the nature or overall level of risk that the designated FMU presents to the relevant stakeholders. Information should be disclosed to the extent that it would not risk prejudicing the security and integrity of the FMU or its participants or divulge commercially sensitive information, such as trade secrets or other intellectual property.

With respect to proposed § 234.3(a)(2), the Board requests comment on the following specific questions:

Q.2.1 Should the Board specify in the rule text ''other relevant public interest considerations'' for a specific type of or even for a particular designated FMU?

[18] For these purposes, ''affiliate'' means a company that controls, or is controlled by, or is under common control with the designated FMU. Control of a company means (a) ownership, control, or holding with power to vote 20 percent or more of a class of voting securities of the company; or (b) consolidation of the company for financial report purposes.

[19] The Board recognizes that the language on the composition of the board of directors under Principle 2 of the PFMI is phrased differently. Principle 2 states that the board of directors typically requires the inclusion of non-executive board member(s). The Board believes the intended effect of having non-executive board members (that is, the ability to make objective decisions), is better achieved when they represent the majority on the board of directors.

Q.2.2 Should the Board set a specific minimum percentage of individuals on the board of directors that may not be executives, officers, or employees of the designated FMU or an affiliate of the designated FMU? Alternatively, should the standard set any requirements for the participation of outside directors (that is, directors who are not participants in or management of the designated FMU)?

Q.2.3 Should the Board require specifically that the chairman of the board of directors be (a) an individual who is not an executive, officer, or employee of the designated FMU or an affiliate of the designated FMU or (b) a different individual than the designated FMU's chief executive officer?

Q.2.4 Should there be a requirement for the regular reviews of the performance of the board of directors and its individual board members to include periodic independent assessments?

Q.2.5 Should the designated FMU's board of directors be required to have a committee of the board of directors that only has audit responsibilities to which the audit function reports and a risk committee of the board of directors that only has risk-management responsibilities to which the risk-management function reports? Alternatively, should the designated FMU's audit and risk-management functions be required to report directly to the entire board of directors?

Q.2.6 What additional guidance should the Board provide to a designated FMU's board of directors in order to identify a ''major decision'' that must be disclosed to relevant stakeholders under the rule?

3. Framework for the Comprehensive Management of Risks

Proposed § 234.3(a)(3) requires the designated FMU to have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, general business, custody, investment, and other risks that arise in or are borne by the designated FMU. A comprehensive risk-management framework is a set of objectives, policies, procedures, and systems that supports the designated FMU in identifying risks, determining a risk-tolerance level, and managing risks. The framework provides an overall mechanism for the designated FMU to address the manner in which the risks, addressed individually by the other proposed standards, relate to and interact with each other. For example, attempts to reduce or limit one type of risk could lead to the concentration or creation of different risks, and, although some risks do not appear to be significant in isolation, they can become material when combined with others. Therefore, robust risk management involves taking an integrated and comprehensive approach to risk in order to understand and manage effectively this interplay among individual risks.

Proposed § 234.3(a)(3)(i) requires a designated FMU to have risk-management policies, procedures, and systems that enable it to identify, measure, monitor, and manage risk. These policies, procedures, and systems must address the full range of risks and, in particular, interactions among these risks that can arise in or are borne by the designated FMU, including those posed by other entities as a result of interdependencies. Proposed § 234.3(a)(3)(ii) requires a designated FMU to have risk-management policies, procedures, and systems that enable the designated FMU to identify, measure, monitor, and manage the material risks that it poses to other entities as the result of interdependencies. Such entities include other FMUs, settlement banks, liquidity providers, and services providers. Policies, procedures, and systems must also be designed for a dynamic environment, which includes taking into account the possibility of various economic and financial shocks that may affect the risks presented to or arising in the designated FMU. The entire risk-management framework, including the assumptions used and the component frameworks established for individual risks, must be reviewed and updated periodically to reflect changes in market conditions or the designated FMU's operations.

Even with comprehensive risk management, however, a designated FMU may face extreme scenarios that require extraordinary actions by the FMU so that it can continue to provide its critical operations and services as a going concern. The designated FMU's management of these extreme events requires comprehensive, thoughtful planning to avoid disrupting the markets it serves. Therefore, proposed § 234.3(a)(3)(iii) requires a designated FMU to develop and maintain recovery or orderly wind-down plans that identify the designated FMU's critical operations and services related to payment, clearing, or settlement; scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern, including scenarios involving uncovered credit losses (as described in proposed § 234.3(a)(4)(vi)(A)), uncovered liquidity shortfalls (as described in proposed § 234.3(a)(7)(viii)), and general business losses (as described in proposed § 234.3(a)(15)); and criteria that could trigger the implementation of the recovery or orderly wind-down plans. Proposed § 234.3(a)(3)(iii) further requires the recovery or orderly wind-down plans to include rules, procedures, policies, and any other tools the designated FMU would use in a recovery or wind-down to address the scenarios identified by the designated FMU; procedures to ensure timely implementation of the plans in the scenarios identified by the designated FMU; and procedures for informing the Board, as soon as practicable, if the designated FMU is considering initiating the recovery or orderly wind-down plan.

Effective plans not only address the specific actions or measures a designated FMU would take during a recovery or orderly wind-down, but also the *ex ante* determination of key individuals who are responsible for the plan (including responsibilities for overseeing the development, maintenance, and implementation of the plans), the incentives that the plan creates for the designated FMU's participants and the participants' customers, and identification of key areas of the designated FMU that may affect (for example, organization structure, interconnectedness and interdependencies of existing processes or resources) or be affected by (for example, funding, liquidity, or capital needs and resources available) the strategies planned.[20] As mentioned in the discussion on legal basis in proposed § 234.3(a)(1), one way for the designated FMU to ensure the soundness of its recovery and orderly wind-down strategies is to include in its plans an analysis of the legal implications and risks involved. The plans should be reviewed and tested, for example by carrying out periodic simulation and scenario exercises, at least annually or following material changes to the designated FMU's operations or risk profile, and the designated FMU should update these

[20] See CPSS–IOSCO *Recovery of Financial Market Infrastructures* consultative report at *http://www.bis.org/publ/cpss109.pdf.* See also Financial Stability Board, *Key Attributes of Effective Resolution Regimes for Financial Institutions* report at *http://www.financialstabilityboard.org/publications/r_111104cc.pdf,* and the Board's Regulation QQ (joint rule with the FDIC) for a similar requirement for resolution plans with respect to nonbank financial companies supervised by the Board and bank holding companies with consolidated assets of $50 billion or more. *http://www.federalreserve.gov/bankinforeg/reglisting.htm#QQ.*

plans as needed following the completion of each test and review.

Proposed § 234.3(a)(3)(iii) is a new requirement and may impose a cost on a designated FMU with respect to the analysis, development, and maintenance of plans for recovery or orderly wind-down. The proposed rule, however, is intended to help a designated FMU respond to extreme scenarios on a timely basis and may help the designated FMU develop early indicators for these types of scenarios so they can be avoided. *Ex ante* identification of, and planning for, scenarios that could lead to failure, as well as dissemination of such information to participants, also can increase market certainty. Ultimately, this requirement is intended to prevent a disorderly wind-down of a designated FMU and the resulting liquidity or credit problems to other financial institutions or markets.

With respect to proposed § 234.3(a)(3), the Board requests comment on the following specific questions:

Q.3.1 Should an annual or longer minimum frequency be established for the proposed ''periodic review'' of the designated FMU's comprehensive risk-management framework? Commenters should discuss the anticipated costs or benefits of any suggested minimum frequency. Alternatively, should individual minimum frequencies be established for each particular designated FMU, given the design or type of designated FMU?

4. Credit Risk

Proposed § 234.3(a)(4) requires a designated FMU to measure, monitor, and manage effectively its credit risk to its participants and those arising from its payment, clearing, and settlement processes. Credit risk arises when a counterparty such as a participant, settlement bank, custodian, or other FMU, is unable to meet fully its financial obligations when due or at any time in the future.[21] A default by one or more of a designated FMU's participants could prevent the designated FMU from meeting financial obligations to its other participants, consequently causing the other participants to fail to meet their other financial obligations when due. The failure of a designated FMU to manage appropriately its credit risks, therefore, has the potential to increase systemic risk throughout the broader financial system and thus threaten financial stability. To mitigate the risk of such a systemic impact, a designated FMU must manage its credit exposures to its participants and the credit risks arising from its payment, clearing, and settlement processes.

Under proposed § 234.3(a)(4), a designated FMU must establish a comprehensive framework to manage its credit exposures to its participants and any other exposures arising from its payment, clearing, and settlement processes. This framework should allow the designated FMU to identify sources of credit risk, measure and monitor its credit exposures, and use appropriate risk-management tools to control the risks generated by such exposures. Credit exposure can be separated into two measurable components: Current exposure and potential future exposure.[22] Current exposure is relatively straightforward to measure and monitor, while potential future exposure typically requires modeling and estimation. For example, a designated FMU that operates a payment system would face current exposure when it extends intraday credit to its participants and potential future exposure if the value of any collateral that participants provide to secure the intraday credit falls below the amount of the credit extended.[23]

Under proposed § 234.3(a)(4), a designated FMU also must maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[24] The Board acknowledges that a designated FMU cannot be completely certain that it is covering its credit exposure to each participant fully, because measuring potential future exposure likely requires modeling and estimation. Therefore, although the designated FMU's current exposures must be covered fully, its potential future exposures must be covered fully with a high degree of confidence. In the case of a designated FMU that operates as a central counterparty, ''high degree of confidence'' means establishing initial margin requirements that, at a minimum, meet a single-tailed confidence level of at least 99 percent of the estimated distribution of future exposure.

Additional prefunded financial resources. Proposed § 234.3(a)(4)(i) and (ii) require a designated FMU that operates as a central counterparty to maintain additional prefunded financial resources to cover a portion of the residual risk (or tail risk) of disruptions that could occur in extreme but plausible market conditions, which could cause a central counterparty's losses to exceed the margin posted if a participant defaulted.[25] Specifically, proposed § 234.3(a)(4)(i) requires a designated FMU that operates as a central counterparty to maintain additional prefunded resources sufficient to cover its credit exposure under a wide range of significantly different stress scenarios, including the default of the participant and its affiliates that would potentially cause the largest aggregate credit exposure net of any applicable margin to the central counterparty in extreme but plausible market conditions (a ''Cover One'' requirement).

Alternatively, under proposed § 234.3(a)(4)(ii), the central counterparty may instead be directed by the Board to maintain additional prefunded financial resources that are sufficient to cover its credit exposure under a wide range of significantly different stress scenarios, including the default of the two participants and their affiliates that would potentially cause the largest aggregate credit exposure net of any applicable margin to the central counterparty in extreme but plausible market conditions (a ''Cover Two'' requirement). Under the proposal, the Board may require a central counterparty to meet the Cover Two requirement when that central counterparty is involved in activities with a more-complex risk profile (such as clearing products with discrete jump-to-default risks or that are highly correlated with potential participant defaults) or is determined by another

[21] For similar corresponding standards under current Regulation HH, see § 234.3(a)(3) and (5) for payment systems, § 234.4(a)(15) for central securities depositories, and § 234.4(a)(16) and (18) for central counterparties. The current standards bundle the management of credit and liquidity risks. Separating credit risk and liquidity risk recognizes that there are different tools that could be used to identify, monitor, and manage these two distinct risks.

[22] Current exposure is the larger of zero or the market value (replacement cost) of a transaction or portfolio of transactions within a netting set with a counterparty that would be lost upon the default of the counterparty. Potential future exposure is the maximum exposure estimated to occur at a future point in time at a high level of statistical confidence.

[23] Proposed § 234.3(a)(5) provides additional requirements relating to collateral.

[24] In a case in which a designated FMU operates a payment system or a securities settlement system, financial resources would include collateral and other equivalent financial resources, as described in proposed § 234.3(a)(5) on collateral. In the case where a designated FMU operates as a central counterparty, financial resources would include margin and other prefunded financial resources, as described in proposed § 234.3(a)(5) and (6) on collateral and margin, respectively.

[25] Proposed § 234.3(a)(4)(iv) prohibits a designated FMU that is a central counterparty from counting assessment powers for additional default or guaranty fund contributions (i.e., default or guaranty fund contributions that are not prefunded) in its calculation of financial resources available to meet the total financial resource requirement to cover its credit exposures.

jurisdiction to be systemically important in that jurisdiction.

Stress testing. Stress testing is a critical component of a designated FMU's financial risk-management framework. Under proposed § 234.3(a)(4)(iii), a designated FMU that is a central counterparty must determine the amount and regularly test the sufficiency of its total financial resources in the event of a participant default or multiple participant defaults in extreme but plausible market conditions through stress testing. Under the proposal, a designated FMU must, (A) on a daily basis, conduct a stress test of its total financial resources using standard and predetermined stress scenarios, parameters, and assumptions; (B) on at least a monthly basis, and more frequently when the products cleared or markets served experience high volatility or become less liquid, or when the size or concentration of positions held by the central counterparty's participants increases significantly, conduct a comprehensive and thorough analysis of the existing stress scenarios, models, and underlying parameters and assumptions such that the designated FMU meets its required level of default protection in light of current and evolving market conditions; and (C) have clear procedures to report the results of its stress tests to decisionmakers at the central counterparty and use these results to evaluate the adequacy of and adjust, if necessary, its total financial resources.

Stress testing helps ensure that the designated FMU has sufficient total financial resources under current and evolving market conditions. When conducting stress tests, a designated FMU should use a wide range of significantly different stress scenarios in terms of both defaulters' positions and possible price changes in liquidation periods, including, at a minimum, relevant peak historic price volatilities, shifts in other market factors, such as price determinants and yield curves, multiple defaults over various time horizons, simultaneous pressures in funding and asset markets, and a range of forward-looking stress scenarios in a variety of extreme but plausible market conditions. The results of these stress tests inform the decisionmakers such as the board of directors or the appropriate committee of the board within the organization, who must use the results to evaluate the adequacy of and adjust its total financial resources. Clearly established and documented procedures allow for these results to be reported to the appropriate parties for prompt action and contribute to the overall effectiveness of using stress testing as a risk-management tool.

Model validation. Under proposed § 234.3(a)(4)(v), a designated FMU must validate its risk-management models used to determine the sufficiency of its total financial resources at least annually.[26] A validation should be comprehensive, addressing the justification of the approach and assumptions underlying the model, the calibration of critical parameters and other model settings, and the reliability of the model and programming. Model validation can either be undertaken by outside experts or by internal staff with the necessary expertise. In either case, the validator must be a qualified person who does not perform functions associated with the model (except as part of the annual model validation), does not report to such a person, and does not have a financial interest in whether the model is determined to be valid.

Proposed § 234.3(a)(4)(iii) through (v) contain two new requirements to Regulation HH related to the frequency of stress testing conducted by designated FMUs that are central counterparties and to model validation by all designated FMUs that face credit risk. Broadly, stress testing and validation of credit risk management models are consistent with past Board supervisory practice. The proposed rule, however, establishes minimum frequencies for such stress testing and model validation. The daily and monthly stress testing requirements help to promote robust management of credit risk by increasing the availability of stress testing data available to a central counterparty to assess its financial resources and the performance of its models. The annual model validation requirement also promotes robust credit risk management by ensuring the designated FMU's risk-management models continue to reflect current economic and financial conditions, in part by allowing the FMU to both uncover and track any limitations to its models.

Rules and procedures to address uncovered credit losses. In certain extreme circumstances, the post-liquidation value of the collateral and other financial resources held by a designated FMU to fulfill its credit-risk requirement may not be sufficient to cover fully realized credit losses. A designated FMU must make plans for responding to such a shortfall. Proposed § 234.3(a)(4)(vi) requires the designated FMU to establish rules and procedures that explicitly address how potentially uncovered credit losses would be allocated, including how the designated FMU would repay any funds it may borrow from liquidity providers. This proposed provision represents an enhancement of existing expectations. The proposed rule also requires the designated FMU to establish rules and procedures that explicitly describe how the designated FMU plans to replenish any financial resources it may use during a stress event, including a participant default, so that it may continue to operate in a safe and sound manner. This proposed provision represents a new requirement.

Proposed § 234.3(a)(4)(vi) contains an enhanced requirement that designated FMUs have rules and procedures that explicitly address how potentially uncovered credit losses would be allocated, including repayment of any funds a designated FMU might borrow from liquidity providers, and a new requirement that designated FMUs have rules and procedures that address the FMU's process to replenish any financial resources that the FMU might employ in a stress event. This requires a designated FMU to plan for and be transparent with respect to its procedures for extreme credit events. It is also a critical step in the designated FMU's process for developing its recovery or orderly wind-down plans, as described in proposed § 234.3(a)(3)(iii).

The process of planning for extreme events such as uncovered credit losses helps prepare the designated FMU for managing these events, thereby reducing the likelihood that the designated FMU will fail to settle its obligations. Planning for replenishment of financial resources increases the likelihood that the designated FMU will be able to continue to operate after an extreme credit event occurs. The transparency of the designated FMU's rules and procedures will also help participants plan and prepare for such an event.

With respect to proposed § 234.3(a)(4), the Board requests comment on the following specific question:

Q.4.1 In considering whether to apply a Cover Two requirement for a central counterparty, should the Board consider factors other than whether the central counterparty is involved in activities with a more-complex risk profile and whether the central counterparty is determined by another jurisdiction to be systemically important

[26] This validation must include validation of models the designated FMU uses to comply with the collateral provisions under proposed § 234.3(a)(5) and to determine initial margin under proposed § 234.3(a)(6). It should also include validation of models the designated FMU uses to size its total financial resources and to conduct any other material risk-management functions.

in that jurisdiction? Should the approach used to make the determination by another jurisdiction that a designated FMU is systemically important in that jurisdiction be similar to the approach used by the Council in order for the determination to be a factor in the Board's consideration of whether to impose a Cover Two requirement?

5. Collateral

Proposed § 234.3(a)(5) requires a designated FMU that uses collateral to manage its or its participants' credit exposure to accept collateral with low credit, liquidity, and market risks and set and enforce appropriately conservative haircuts and concentration limits, in order to achieve a high degree of confidence in the adequacy of the value of the collateral in the event of liquidation and that the collateral can be used in a timely manner.[27] Collateralizing credit exposures protects an FMU against potential losses in the event of a participant default because the FMU can liquidate the defaulting participant's collateral to cover the losses. A designated FMU requiring its participants to post collateral may also encourage these participants to manage the risks that they may pose to the FMU and other participants to avoid losing their collateral.

Collateral with low credit, liquidity, and market risks protects the FMU during stressed market conditions, when both a default may become more likely and collateral quality may deteriorate. A designated FMU must generally limit the assets it routinely accepts as collateral to those with low credit, liquidity, and market risks, such as currency and government securities issued by the United States, or other highly marketable collateral, including high quality, liquid, general obligations of another sovereign nation, in order to be confident of the collateral's value and the FMU's ability to access and use that collateral in the event of a participant default, especially during stressed market conditions.

A designated FMU applies haircuts to collateral it collects in order to protect itself from losses resulting from declines in the market value of the asset posted in the event that the collateral taker needs to liquidate that collateral. Haircuts represent a risk control measure and are estimated to be the possible percentage decrease in liquidation value from the current market value until the designated FMU can liquidate the collateral. A precursor to ensuring the haircuts applied are appropriate, therefore, includes assigning an accurate current value to the collateral accepted, which depends on prudent practices for valuation, including marking collateral to market on a daily basis.

Proposed § 234.3(a)(5)(i) through (iii) establish requirements related to a designated FMU's collateral practices and specifically, on haircut procedures. Proposed § 234.3(a)(5)(i) requires a designated FMU that accepts collateral to establish prudent valuation practices and develop haircuts that are tested regularly and take into account stressed market conditions. Further, proposed § 234.3(a)(5)(ii) requires the designated FMU to establish stable and conservative haircuts that reflect relevant periods of stressed market conditions to reduce the need for procyclical adjustments. In a stressed market, a designated FMU may require the posting of additional collateral both because of the decline of asset prices and because of an increase in haircut levels. Such actions could exacerbate market stress and contribute to driving asset prices down further and result in additional collateral requirements. This cycle could exert further downward pressure on asset prices. Calibrating haircuts to incorporate stressed market conditions is, therefore, essential to help mitigate the need for a designated FMU either to require large amounts of additional collateral, or to significantly increase the size of the haircut to address declining asset prices. Proposed § 234.3(a)(5)(iii) requires a designated FMU to validate annually its haircut procedures, as part of its risk-management model validation under proposed § 234.3(a)(4)(v).

Proposed § 234.3(a)(5)(iv) requires a designated FMU to avoid concentrated holdings of certain assets where it could significantly impair the ability to liquidate such assets quickly without significant adverse price effects. One way of avoiding concentrated holdings is through the establishment of concentration limits that restrict participants' ability to provide more than a specified amount or percentage of a specific asset as collateral. Imposing concentration charges on participants that maintain holdings beyond this limit may help the designated FMU create disincentives for such concentrations. Whether concentration limits are needed will depend, in part, on the assets accepted as collateral.

Proposed § 234.3(a)(5)(v) requires that a designated FMU use a collateral management system that is well-designed and operationally flexible. Among other things, the collateral management system must accommodate changes in the ongoing monitoring and management of collateral. It should also allow for the timely valuation of collateral and execution of any collateral or margin calls. The designated FMU should allocate sufficient resources to its collateral management system to ensure an appropriate level of operational performance, efficiency, and effectiveness.

6. Margin

Proposed § 234.3(a)(6) requires a designated FMU that operates as a central counterparty to cover its credit exposures to its participants for all products by establishing a risk-based margin system.[28] Margin is the collateral that a central counterparty collects in order to help manage and mitigate the credit exposures posed by its participants' open positions. It is one of the core tools a central counterparty uses to manage its credit exposures. Margin systems typically differentiate between initial margin, which covers potential future exposure over the appropriate close-out period in the event of a default, and variation margin, which a central counterparty collects and pays out to reflect changes in current exposures resulting from realized changes in market prices.

Collecting sufficient margin protects the central counterparty and its non-defaulting participants against potential losses in the event of a participant default because the central counterparty can apply the defaulting participant's margin to cover the defaulter's obligations and any resulting losses. To promote robust risk management, therefore, a designated FMU that operates as a central counterparty must establish a margin system that is risk-based and reviewed regularly to ensure sufficient margin is collected. When designing and establishing an effective margin system, a designated FMU should consider the underlying concept and methodology; the attributes of each product, portfolio, and market the designated FMU serves; the availability and use of price data; the calculation of variation and initial margin; the operational capacity to make margin calls; and appropriate parameters and assumptions. The Board proposes the following provisions to address these aspects of margin systems.

Under proposed § 234.3(a)(6)(i), a designated FMU that operates as a central counterparty is required to

[27] For similar corresponding standards under current Regulation HH, see § 234.3(a)(5) for payment systems, § 234.4(a)(15) for central securities depositories, and § 234.4(a)(17) for central counterparties.

[28] The proposed standard replaces and builds on § 234.4(a)(17) under current Regulation HH.

establish a risk-based margin system that is conceptually and methodologically sound for the risks and particular attributes of each product, portfolio, and markets it serves, as demonstrated by documented and empirical evidence supporting the margin model's design choices, methods used, variables selected, theoretical bases, key assumptions, and limitations. These elements are important for demonstrating the quality of the model, including showing whether judgment exercised in its design and construction is well-informed and carefully considered. Under proposed § 234.3(a)(6)(ii), the margin levels applied by the central counterparty must be commensurate with the risks and particular attributes of each product, portfolio, and markets it serves, including taking into account the complexity of the underlying instruments.

Proposed § 234.3(a)(6)(iii) and (iv) establish requirements related to a central counterparty's price data for purposes of its margin system. First, a central counterparty's margin system must be based on a reliable source of timely price data for the central counterparty to cover sufficiently its credit exposures to its participants. A central counterparty must use high-quality price data from continuous, transparent, and liquid markets where available. When such high-quality price data is unavailable, a central counterparty must acquire pricing data from other sources. A central counterparty should evaluate developing its own pricing process and obtaining third-party pricing services. In either case, the designated FMU must continually evaluate the data's reliability and accuracy.

Under proposed § 234.3(a)(6)(v), a central counterparty's margin system must mark participant positions to market and collect variation margin at least daily and have the operational capacity to make intraday margin calls and payouts, both scheduled and unscheduled, to participants. A central counterparty must collect variation margin at least daily (and, when appropriate, intraday) to prevent the accumulation of current exposures and mitigate potential future exposures.

Proposed § 234.3(a)(6)(vi), a central counterparty's system must also be able to generate initial margin requirements sufficient to cover potential changes in the value of future exposure to each participant's position during the interval between the last variation margin collection and the close out of positions following a participant default. In particular, the margin system must (A) ensure that initial margin meets an established single-tailed confidence level of at least 99 percent with respect to the estimated distribution of future exposure; and (B) use a conservative estimate of the time horizons for the effective hedging or close out of the particular types of products cleared by the central counterparty, including in stressed market conditions.

A key assumption of effective margin models is the close-out period, which is an estimate of how long it would take the designated FMU to liquidate or completely hedge the market risk of one or more participants' portfolios. For purposes of the proposed rule, an appropriate close-out period conservatively reflects market liquidity under stressed market conditions for each product that the central counterparty clears. A central counterparty must document the close-out periods and related analysis for each product type that it clears.

A designated FMU's margin model is also dependent on a number of other model parameters and assumptions, which may include the selection of an appropriate sample period of historical data to use in establishing its initial margin model for each product that it clears. For these purposes, an appropriate sample period is long enough to provide an accurate representation of historical price movements, while also being sensitive to recent price and volatility levels. Additionally, an effective margin system eliminates the potential for specific wrong-way risk, which occurs when the default of a participant is highly correlated with a decrease in value of the participant's cleared portfolio. An example of specific wrong-way risk is when a participant sells single-name credit-default swap protection on debt issued in its own name or on the names of any affiliates.

A central counterparty must also seek to avoid application of its margin arrangement in a manner that could exacerbate or cause financial instability. For example, in a period of rising credit risk, if the central counterparty requires initial margin in excess of the amount determined by the margin model, it may add to the market stress and volatility. In general, margin requirements should be, to the extent possible, designed to be forward-looking, stable, and conservative that are specifically designed to limit the need for destabilizing, procyclical changes. To support this objective, a central counterparty could consider increasing the size of its prefunded default arrangements to limit the need and likelihood of large or unexpected margin calls in times of market stress.

Under proposed § 234.3(a)(6)(vii), the designated FMU must monitor on an ongoing basis and regularly review, test, and verify its margin system. Specifically, the designated FMU must conduct daily backtests and monthly sensitivity analyses, performed more frequently during stressed market conditions or significant fluctuations in participant positions. Further, the central counterparty must also provide for annual validation of its margin models and related parameters and assumptions, as part of its risk-management model validation under proposed § 234.3(a)(4)(v).

The Board expects backtests to incorporate only the portions of the margin model that are reflected in the available historical data. For example, a central counterparty might add an additional concentration charge to reflect the difficulty in unwinding a large position, but because historical price data may not incorporate large concentrated positions, the charge should not be included in the backtesting analysis. Separate analyses would need to be conducted to determine the adequacy of concentration charges. For systems whose initial margin covers multiple days, the worst observed price move within the period should be used in backtesting. Backtesting, however, only evaluates the performance of the margin model on the historical sample chosen, it does not guarantee that a model will perform well going forward.

Sensitivity analyses study how variability in the output of the margin model can be influenced by the variability and other aspects of its inputs. It tests the robustness of the margin model and potentially uncovers errors or limits of the model. Sensitivity analysis should incorporate a wide range of input parameters and, where feasible, vary assumptions to reflect various possible market conditions, including the most-volatile periods that have been experienced by the markets served and extreme changes in the correlations between prices and other factors.

Effective backtesting and sensitivity analysis may use both historical data from realized stressed market conditions and hypothetical data for unrealized stressed market conditions. Further, the Board expects the sensitivity analysis to be performed on both actual and simulated positions and portfolios. The analysis would help a central counterparty understand how the level of margin coverage might be affected by highly stressed market conditions.

Sensitivity analysis can also be used to determine the impact of varying important model parameters, such as the sample period, the close-out period, and a confidence interval.

Proposed § 234.3(a)(6) includes three enhanced requirements relative to the current corresponding standard under Regulation HH. First, the proposal increases frequency of backtesting from quarterly to daily. Second, the proposed provision includes an express requirement to perform sensitivity analysis. Third, the proposal increases the frequency of the analysis from quarterly to at least monthly. The Board believes these enhanced requirements will help to ensure that the designated FMU has sufficient financial resources to cover its credit exposures to its participants with a high degree of confidence in current and stressed market conditions. Effective management of credit risk will allow the designated FMU to continue operating normally during periods of market stress and prevent the spread of credit losses to its participants, the market it serves, and the financial system more broadly.

7. Liquidity Risk

Proposed § 234.3(a)(7) requires a designated FMU to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the designated FMU.[29] Liquidity risk is intended to be a broad concept covering different designs for payment and settlement arrangements. Liquidity risk arises in a designated FMU when it, its participants, or other entities (such as settlement banks, nostro agents, and liquidity providers) cannot settle their payment obligations when due as part of the clearing or settlement process. It is important for a designated FMU to manage carefully its liquidity risk so that it can meet its payment obligations and complete settlement when due. If the designated FMU has insufficient liquid resources to meet its payment obligations and complete settlement when due, the other participants may not receive funds they are relying upon to meet their own obligations. As a consequence, the liquidity shortfalls and pressure could be transmitted to these participants and quickly give rise to broad liquidity dislocations and systemic risk.

Under proposed § 234.3(a)(7)(i), a designated FMU must have effective operational and analytical tools to identify, measure, and monitor its settlement and funding flows on an ongoing and timely basis, including its use of intraday liquidity. Effective measuring and monitoring of liquidity risk involves understanding and assessing the value and concentration of a designated FMU's daily settlement and funding flows through its settlement banks, nostro agents, and other intermediaries. Further, a designated FMU must be able to monitor on a daily basis the level of any liquid assets that it holds and determine the value of liquid assets that is available for use. If a designated FMU maintains committed funding arrangements, it must similarly identify, measure, and monitor its liquidity risk from the liquidity providers of the arrangements.

Sufficient liquid resources. Under proposed § 234.3(a)(7)(ii), a designated FMU must maintain sufficient liquid resources in all relevant currencies to effect same-day and, as applicable, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of significantly different potential stress scenarios. These scenarios must include the default of the participant and its affiliates that would generate the largest aggregate liquidity obligation for the designated FMU in extreme but plausible market conditions. A designated FMU that operates as a central counterparty and that is subject to proposed § 234.3(a)(4)(ii) should consider scenarios that include the default of the two participants and their affiliates that would generate the largest aggregate liquidity obligation for the designated FMU in extreme but plausible market conditions.

For purposes of meeting this liquid resource requirement, proposed § 234.3(a)(7)(iii) requires the designated FMU to maintain these liquid resources in cash in each relevant currency at the central bank of issue or at creditworthy commercial banks, or in assets that are readily available and convertible into cash through committed arrangements without material adverse change conditions. These committed arrangements include, but are not limited to, collateralized lines of credit, foreign exchange swaps, and repurchase agreements. Proposed § 234.3(a)(7)(iii) requires these arrangements to be committed in order to ensure that the resources are highly reliable even in extreme but plausible market conditions.[30]

Proposed § 234.3(a)(7)(iv) and (v) require a designated FMU to evaluate and confirm, at least annually, whether each provider of the committed arrangements as described in proposed § 234.3(a)(7)(iii) has sufficient information to understand and manage that provider's associated liquidity risks, and that the provider has the capacity to perform as required under this commitment. Effective liquidity risk management involves ensuring that the designated FMU is operationally ready to handle liquidity pressures caused by participants' or other entities' financial or operational problems. For example, the designated FMU should have the operational capacity to reroute payments on a timely basis in case problems arise with a correspondent bank. A designated FMU therefore must conduct rigorous due diligence to ensure that each of its liquidity providers has the understanding and capacity to perform as expected. As part of rigorous due diligence, a designated FMU also must test at least annually its procedures and operational capacity for accessing each type of liquid resource required under this standard. A designated FMU may also employ other risk-management tools to manage its or its participants' liquidity risk, which can vary depending on the source of liquidity risk (such as a participant default, the late-day submission of payments or other transactions, or the use of a service provider or a linked FMU).

Stress testing of liquid resources. Under proposed § 234.3(a)(7)(vi), a designated FMU must determine the amount and regularly test the sufficiency of its potential liquidity needs and the value of its liquid resources by, (A) on a daily basis, conducting a stress test of its liquid resources using standard and predetermined stress scenarios,

[29] For similar corresponding standards under current Regulation HH, see § 234.3(a)(3) and (5) for payment systems, § 234.4(a)(15) for central securities depositories, and § 234.4(a)(18) for central counterparties. The current standards bundle the management of credit and liquidity risks. Separating credit risk and liquidity risk recognizes that there are different tools that could be used to identify, monitor, and manage these two distinct risks.

[30] The Board recognizes that the language on qualifying liquid resources under Principle 7 of PFMI is phrased differently. Principle 7 requires qualifying liquid resources to be, among other things, highly marketable collateral held in custody and investments that are readily available and convertible into cash with ''prearranged and highly reliable'' funding arrangements. For many years, the Board has expected FMUs under its authority to maintain cash or committed arrangements for converting non-cash assets into cash to meet the minimum liquidity resource requirement. The Board believes that, in order for arrangements to be ''highly reliable,'' they must be ''prearranged and committed.'' The legal enforceability of committed arrangements helps to ensure obligations are fulfilled even in extreme but plausible market conditions. Supplemental resources beyond amounts needed to meet proposed the minimum liquid source requirement in § 234.3(a)(7) may not need to be obtained on a committed basis.

parameters, and assumptions; (B) on at least a monthly basis, and more frequently when products cleared or markets served experience high volatility or become less liquid, or when the size or concentration of positions held by the designated FMU's participants increases significantly, conducting a comprehensive and thorough analysis of the existing stress-testing scenarios, models, and underlying parameters and assumptions such that the designated FMU meets its identified level of liquidity needs and resources in light of current and evolving market conditions; and (C) having clear procedures to report the results of its stress tests to decisionmakers at the designated FMU and using these results to evaluate the sufficiency of and to adjust its liquidity risk-management framework.

In conducting stress testing, the designated FMU must consider a wide range of significantly different potential scenarios. These scenarios include relevant peak historic price volatilities, shifts in other market factors such as price determinants and yield curves, multiple defaults over various time horizons, simultaneous pressures in funding and asset markets, and a spectrum of forward-looking stress scenarios in a variety of extreme but plausible market conditions. Scenarios also include disruptions to the design and operation of the designated FMU, including disruptions caused by all entities that might present material liquidity risks to the FMU, and where appropriate, cover a multiday period. A designated FMU also must consider any strong inter-linkages or similar exposures among its participants, as well as the multiple roles that participants may play with respect to risk management of the designated FMU. Also, liquidity stress test scenarios must consider the probability of multiple failures and the contagion effect among its participants that such failures may cause.

Model validation. Under proposed § 234.3(a)(7)(vii), a designated FMU must validate any models used in its liquidity risk-management at least annually. The validation should be comprehensive, addressing the justification of the approach and assumptions underlying the model, the calibration of critical parameters and other model settings, and the reliability of the model and programming. Model validation can either be undertaken by outside experts or by using internal staff with the necessary expertise. In either case, the validator must be a qualified person who does not perform functions associated with the model (except as part of the annual model valuation), does not report to such a person, and does not have a financial interest in whether the model is determined to be valid. An annual validation of the model is important to provide a high degree of confidence that the designated FMU is using an appropriate liquidity risk-management framework to determine the amount and test the sufficiency of the designated FMU's liquid resources.

Rules and procedures to address shortfalls. In certain extreme circumstances, a designated FMU may not have sufficient liquid resources to cover its obligations. A designated FMU must analyze the possibility of these circumstances and plan for steps it would take in response to such a liquidity shortfall. Under proposed § 234.3(a)(7)(viii), a designated FMU must establish explicit rules and procedures that address potential liquidity shortfalls that would not be covered by the designated FMU's liquid resources and avoid unwinding, revoking, or delaying the same-day settlement of payment obligations, including in the event of one or more participant defaults. Proposed § 234.3(a)(7)(viii) also requires a designated FMU to describe in its rules and procedures its process to replenish any liquid resources that the designated FMU may employ during a stress event, including a participant default, so that it can continue to operate in a safe and sound manner.

The proposed standard contains two new requirements for designated FMUs. First, proposed § 234.3(a)(7)(vi) and (vii) with respect to liquidity stress testing and model validation are new. These requirements are necessary to ensure that the appropriate data regarding liquidity flows and potential liquidity pressures is available to the designated FMU. Increased availability of data will allow an FMU to identify and respond more quickly to liquidity pressures and prevent them from disrupting the operations of the FMU and possibly spreading to the FMU's participants and the financial markets more broadly.

Second, proposed § 234.3(a)(7)(viii) includes a new requirement above the existing standards that requires rules and procedures that explicitly address unforeseen and potentially uncovered liquidity shortfalls and that describe the designated FMU's process to replenish any liquid resources it may employ during a stress event. The process of planning for uncovered liquidity shortfalls helps prepare the FMU to manage such an event, thereby reducing the likelihood that the FMU and its participants will fail to meet payment and settlement obligations as expected. The process of preparing for replenishment of resources increases the likelihood that an FMU will be able to continue to operate after an extreme liquidity event occurs and continue to provide its critical operations and services to the markets it serves. The transparency of the FMU's rules and procedures will also help the FMU's participants plan and prepare for such an event.

With respect to proposed § 234.3(a)(7), the Board requests comment on the following specific question:

Q.7.1 Should the Board establish a requirement for designated FMUs that are subject to the Cover Two credit exposure requirement under proposed § 234.3(a)(4)(ii) to also undertake an analysis at least once a year to evaluate the feasibility of maintaining sufficient liquid resources for the default of the two participants and their affiliates that would generate the largest aggregate liquidity obligation for the designated FMUs in extreme but plausible market conditions?

8. Settlement Finality

Proposed § 234.3(a)(8) requires a designated FMU to provide clear and certain final settlement intraday or in real time, as appropriate, and at a minimum, by the end of the value date.[31] The proposed rule addresses settlement risk, which is the risk that settlement will not take place as expected. For these purposes, final settlement is the moment when the transfer of an asset or financial instrument or discharge of an obligation by a designated FMU or its participants becomes legally irrevocable and unconditional. Final settlement by the end of the value date (that is, the day on which the payment, transfer instruction, or other obligation is due and the associated funds and securities are typically available to the receiving participant) is important because deferring settlement can create credit and liquidity risks for the FMU and its participants. The potential for these additional risks to arise increases the likelihood that a deferred or revocable settlement at a single designated FMU can cause systemic risk and threaten the stability of the broader financial system. Clear and certain final settlement by the end of the value date is therefore necessary for robust risk management and helps to promote the safety and

[31] For similar corresponding standards under current Regulation HH, see § 234.3(a)(4) for payment systems, § 234.4(a)(11) for central securities depositories and central counterparties.

soundness of the designated FMU, reduce systemic risk, and support the stability of the broader financial system.

Under the proposed rule, a designated FMU's payment, clearing, and settlement processes must provide final settlement no later than the end of the value date. Where appropriate, a designated FMU must provide intraday or real-time settlement to reduce settlement risk. Intraday or real-time finality may be appropriate, for example, for payments operations, settlement of back-to-back transactions, intraday margin calls by central counterparties, or safe and efficient cross-border links between central securities depositories that perform settlement functions. The proposed rule also requires a designated FMU to clearly define in its rules and procedures a cutoff point, after which settled payments, transfer instructions, or other settlement instructions may not be revoked by a participant. A clearly defined cutoff point contributes to the overall certainty that a payment will be settled and helps participants manage their liquidity risks.[32]

9. Money Settlements

Proposed § 234.3(a)(9) requires a designated FMU to address the settlement risk that arises when it conducts its money settlements.[33] A designated FMU conducts money settlements for a variety of purposes, such as the settlement of various financial instruments or contracts, funding and defunding activities, and the distribution and collection of margin payments. Money settlements may be conducted in one or more currencies. In general, a designated FMU can conduct settlements in central bank money or in commercial bank money. Central bank money is a liability of a central bank, in the form of deposits held at the central bank that can be used for money settlement purposes. Commercial bank money is a liability of a commercial bank in the form of deposits held at the commercial bank.

A designated FMU and its participants may face credit and liquidity risks from money settlements. Credit risk may arise when a settlement bank has the potential to default on its obligations. Liquidity risk may arise if, after a payment obligation has been settled, participants or the designated FMU are unable to transfer readily their assets at the settlement bank to obtain other liquid assets, such as claims on a central bank. These potential credit and liquidity risks that arise from the money settlement process increase the chances that a single designated FMU would create systemic risk, which may threaten the stability of the broader financial system. To promote risk management, therefore, a designated FMU should manage and mitigate, to the greatest extent practicable, the risks that arise in conducting money settlements.

Under the proposed rule, a designated FMU must conduct its money settlements in central bank money, where available and practical, in order to mitigate the credit and liquidity risks that arise from money settlements. Central bank money, however, may not always be available for use. For example, a designated FMU or its participants may not have direct access to relevant central bank accounts and payment services. In addition, in some cases, settlement in central bank money may not always be practical. For example, an FMU that has access to the relevant central bank accounts and services may find that a central bank's payment services may not operate or provide the necessary finality at the times when it needs to conduct money settlements. In such cases, a designated FMU may conduct money settlements at a commercial bank or on its own books and would need to minimize and strictly control the credit and liquidity risks arising from the money settlement arrangement used.

Proposed § 234.3(a)(9)(i) through (iii) apply specifically to designated FMUs that conduct money settlements at a commercial bank. Under proposed § 234.3(a)(9)(i), such a designated FMU must establish and monitor adherence to criteria based on high standards for its settlement banks that take account of, among other things, the commercial bank's applicable regulatory and supervisory frameworks, creditworthiness, capitalization, access to liquidity, and operational reliability. Further steps to limit credit and liquidity exposures include using multiple commercial settlement banks to diversify the risk of a commercial settlement bank failure. Under proposed § 234.3(a)(9)(ii), a designated FMU using multiple commercial settlement banks must monitor and manage the concentration of credit and liquidity exposures to its commercial settlement banks and assess its potential losses and liquidity exposures as well as those of its participants in the event that the commercial settlement bank with the largest share of activity were to fail. Finally, under proposed § 234.3(a)(9)(iii), a designated FMU must ensure that its legal agreements with its settlement banks state clearly when transfers on the books of individual settlement banks are expected to occur, that transfers are final when funds are credited to the recipient's account, and that funds credited to the recipient are available immediately for withdrawal.

10. Physical Deliveries

Proposed § 234.3(a)(10) requires a designated FMU that operates as a central counterparty, securities settlement system, or central securities depository to clearly state its obligations with respect to the delivery of physical instruments or commodities and identify, monitor, and manage the risks associated with such physical deliveries.[34] A designated FMU may settle transactions using physical delivery, which is the delivery of an asset, such as a financial instrument or a commodity, in physical form. Physical instruments include securities, commercial paper, and other debt instruments that are issued in paper form. Commodities include tangible assets. Settlement risk arises in both the storage and delivery of the underlying instrument or commodity because of, for example, risk of theft, loss, counterfeiting, or deterioration. Settlement risk associated with credit, liquidity, or other risks involving money settlements in U.S. or foreign currencies are addressed broadly in the other proposed standards.

Under the proposed rule, a designated FMU that provides physical settlement must have rules that clearly state its obligations with respect to physical deliveries. Clear rules on physical deliveries enable the designated FMU and its participants to take the appropriate steps to mitigate the risks posed by such physical deliveries. For example, clear rules would include definitions for acceptable physical instruments or commodities, permissible alternative delivery locations or assets (if any), rules for warehouse operations, and the timing of delivery, where relevant. The designated FMU must also identify, monitor, and manage the risks associated with the storage and delivery of physical instruments and commodities. The designated FMU must ensure that its record of physical assets

[32] Ensuring the consistency and enforceability of a designated FMU's settlement finality rules consistent with relevant laws and regulations is a component of the broader requirement to have a well-founded and enforceable legal basis for each material aspect of the designated FMU's activities under proposed § 234.3(a)(1).

[33] For similar corresponding standards under current Regulation HH, see § 234.3(a)(6) for payment systems, § 234.4(a)(5) for central securities depositories and central counterparties.

[34] The proposed standard replaces § 234.4(a)(13) under current Regulation HH.

reflects accurately the assets in its possession. It would be prudent for a designated FMU to have appropriate employment policies and procedures for personnel that handle physical assets, including proper background checks and training. Additional risk-management methods a designated FMU may consider include insurance coverage and random storage facility audits.

11. Central Securities Depositories

Proposed § 234.3(a)(11) requires a designated FMU that operates as a central securities depository to minimize and manage the unique risks associated with its function and design.[35] A central securities depository provides securities accounts, central safekeeping, and asset services; helps to ensure the integrity of securities issues; and usually operates a securities settlement system to transfer securities. As a result, a central securities depository may present custody risk to their participants. Custody risk is the risk of loss on assets held in custody in the event of the central securities depository's insolvency, negligence, fraud, poor administration, or inadequate recordkeeping. For example, safekeeping and transferring securities in physical form can pose risk of loss or destruction of the securities due to such causes as fire, flood, or theft of the security.

Under the proposed rule, a central securities depository must have appropriate rules and procedures to help ensure the integrity of securities issues. The preservation of the rights of issuers and holders of securities is essential for the orderly functioning of a securities market. Failure by the central securities depository to protect customers' assets from loss or destruction, to safeguard the rights of securities issuers or holders, or to keep accurate records of a securities issuance can have severe effects on the confidence of the participants in the safety and soundness of the central securities depository and on the safety and stability of the markets for these securities. To protect the integrity of the securities issue, the rules and procedures must provide for reconciliation of the securities issues that it maintains at least daily, and ensure that the total number of securities recorded in the central securities depository for a particular issue is equal to the amount of securities of that issue held on the central securities depository's books. One important way for a designated FMU to avoid credit risk and reduce the potential for the unauthorized creation of securities is to have the rules and procedures that prohibit overdrafts and debit balances in securities accounts.

Further, the central securities depository must minimize and manage the risks associated with the safekeeping and transfer of securities. With respect to safekeeping, the central securities depository must employ a system that ensures the segregation of assets belonging to the central securities depository from those belonging to its participants. In addition, the central securities depository must segregate participants' securities from those of other participants. With respect to the transfer of securities, although a central securities depository may transfer securities held in physical form via physical delivery, it can reduce the risks associated with such form of delivery by immobilizing the securities and providing electronic transfer via a book-entry system. It can further eliminate the risks associated with holding securities in physical form through dematerialization. Therefore, a central securities depository must maintain securities in immobilized or dematerialized form so that they can be transferred via book entry to the greatest extent possible.

12. Exchange-of-Value Settlement Systems

The settlement of a financial transaction by a designated FMU may involve the settlement of two linked transactions, such as the delivery of securities against payment of cash (i.e., DvP), delivery of securities against delivery of other securities (i.e., DvD), or the delivery of a payment in one currency against delivery of a payment in another currency (i.e., PvP). Substantial credit losses and liquidity pressures may result from the failure to complete the settlement of both sides of the linked obligations. Accordingly, under proposed § 234.3(a)(12), a designated FMU that settles transactions that involve the settlement of two linked obligations, such as a transfer of securities against payment or the exchange of one currency for another, must condition the final settlement of one obligation upon the final settlement of the other.[36] In this context, the designated FMU eliminates principal risk, which is the risk that a counterparty will lose the full value involved in a transaction when one leg of the obligation is settled, but the other is not (for example, the securities are delivered but no cash payment is received). The appropriate mechanisms to achieve such final settlement to eliminate principal risk are DvP, DvD, or PvP settlement. These mechanisms can settle obligations on either a gross basis or on a net basis and the obligations need not be settled simultaneously. However, the mechanism must ensure that the settlement of one obligation is final *if and only if* the settlement of the corresponding obligation is final.

13. Participant-Default Rules and Procedures

Proposed § 234.3(a)(13) requires the designated FMU to have effective and clearly defined participant-default rules and procedures that are designed to ensure that the designated FMU can take timely action to contain losses and liquidity pressures and continue to meet its obligations.[37] If participant defaults are handled ineffectively, losses and liquidity pressures can lead to the failure of the designated FMU and can spread to the designated FMU's other participants and to the markets it serves.

Participant-default rules and procedures must describe the circumstances, both financial and operational, that constitute a participant default and that would trigger the established default procedures. Other key aspects to be considered in designing the rules and procedures include the actions that a designated FMU can take when a default is declared; the extent to which such actions are automatic or discretionary; potential changes to the normal settlement practices to ensure timely settlement should these changes be necessary in extreme circumstances; the management of transactions at different stages of processing; the expected treatment of proprietary and customer transactions and accounts; the probable sequencing of actions; the roles, obligations, and responsibilities of the various parties, including non-defaulting participants; and the existence of other mechanisms that may be activated to contain the impact of a default.

The proposed rule requires that a designated FMU's rules and procedures regarding participant defaults enable it to take timely action to contain losses and liquidity pressures resulting from a

[35] The proposed standard replaces and builds on § 234.4(a)(14) under current Regulation HH.

[36] The proposed standard replaces § 234.4(a)(12) under current Regulation HH for central securities depositories and central counterparties and extends the requirement explicitly by regulation to payment systems.

[37] For similar corresponding standards under current Regulation HH, see § 234.3(a)(2) and (5) for payment systems and § 234.4(a)(10) for central securities depositories and central counterparties.

default. Its rules must clearly describe the use and sequence of use of the financial resources at its disposal and the obligations of the non-defaulting participants to replenish the financial resources used during a default. Further, the public disclosure of key aspects of the designated FMU's participant default rules and procedures will help to provide predictability regarding the measures that the designated FMU will take during a default (see also proposed § 234.3(a)(23)).

The proposed rule also requires a designated FMU to test and review its default procedures, including any close-out procedures, at least annually or following any material changes to the rules and procedures. These tests and reviews are most effective when they involve the designated FMU's participants and other stakeholders because the objective of the testing is to ensure that the parties affected by a default understand and are able to carry out their responsibilities as expected during a default event.

14. Segregation and Portability

Proposed § 234.3(a)(14) requires a designated FMU that operates as a central counterparty to have rules and procedures that enable the segregation and portability of positions of a participant's customers and the collateral provided to the designated FMU with respect to those positions. Segregation refers to a method of holding or accounting for a participant's customer collateral and contractual positions separately from those of the participant in order to protect the customer's collateral from becoming part of the participant's estate in insolvency. Portability refers to the operational aspects of the transfer of contractual positions, funds, or securities from one party to another.

It is important for a central counterparty to have segregation and portability arrangements, or alternate means, that protect the assets of a participant's customers in the event of that participant's default or insolvency. Effective segregation arrangements also provide for clear and reliable identification of the participant's customers' positions and related collateral. Effective portability arrangements lessen the need for closing out positions, even during times of market stress. Portability thus reduces the costs and potential market disruption associated with closing out positions and reduces the possible impact on customers' ability to continue to obtain access to central clearing.

Effective segregation and portability not only depends on the operational capabilities of the designated FMU, but also on the applicable legal framework. A cash-market central counterparty, for example, may operate in a legal regime that offers the same degree of protection for a participant's customers as the segregation and portability approaches under proposed § 234.3(a)(14). In such cases, the Board will take into consideration a central counterparty's assessment of whether the applicable legal or regulatory framework achieves the same degree of protection and efficiency for customers that would otherwise be achieved by segregation and portability arrangements at the central counterparty level described in the proposed standard. The Board believes segregation and portability arrangements may differ depending on the design of a central counterparty and would work with any applicable designated FMU through the supervisory process to determine how best to set specific requirements.

Proposed § 234.3(a)(14) is a new standard with respect to Regulation HH. These arrangements help to minimize credit and liquidity risks to participants' customers, reduce the potential for systemic risk that could result from credit and liquidity exposures on a defaulting participant's customers, and thereby support the stability of the broader financial system.

15. General Business Risk

Proposed § 234.3(a)(15) requires the designated FMU to identify, monitor, and manage its general business risk, which is the risk of losses that may arise from its administration and operation as a business enterprise that are neither related to participant default nor separately covered by financial resources maintained for credit or liquidity risk under proposed § 234.3(a)(4) and (7). General business risk includes any potential impairment of the designated FMU's financial position as a consequence of a decline in its revenues or an increase in its expenses, where such expenses exceed revenues and result in a loss that must be charged against capital. Such impairment can be caused by a variety of business factors, including a poor business strategy, ineffective operations, negative cash flows, and unexpected and excessively large operating expenses. General business risks may also arise from other risks, such as legal risk (in the case of legal actions challenging the designated FMU's custody arrangements or other business activities), investment risk affecting the designated FMU's resources, and operational risk (in the case of fraud, theft, or loss). Losses associated with general business risk may result in an extraordinary one-time loss or recurring losses.

General business risk may threaten the designated FMU's ability to continue to operate as a going concern. The abrupt or disorderly failure of a designated FMU would cause significant uncertainty and confusion in the markets it serves. In such a scenario, the designated FMU's participants may be unable to clear or settle their financial transactions as expected.

Under the proposed rule, a designated FMU must identify, monitor, and manage its general business risk, in part by identifying and assessing its sources of general business risk and their potential impact on its operations and services. For example, a designated FMU must conduct scenario analysis to examine how specific adverse business scenarios would affect it. The designated FMU must also conduct sensitivity analysis to test how a particular source of business risk, such as the loss of a key customer, may affect its financial standing (for example, its cash flows, liquidity, and capital positions). A designated FMU also must have internal processes, controls, and information systems to measure and monitor on an ongoing basis the general business risks that it identifies.

Proposed § 234.3(a)(15)(i) requires a designated FMU to maintain, at a minimum, sufficient liquid net assets funded by equity to cover the greater of: (1) The cost to implement its recovery or orderly wind-down plan to address general business losses and (2) six months of current operating expenses. This requirement is intended to ensure that the designated FMU has both the liquidity and the capital to absorb unexpected losses, permitting it to weather adverse conditions, and promote public confidence in the designated FMU's ability to continue operations and services as a going concern. Should it become necessary for a designated FMU to wind down its operations and services to its participants, the liquid resources and capital it holds may also help to fund the wind-down so that it can be conducted in an orderly manner.

Under proposed § 234.3(a)(15)(i), liquid net assets funded by equity are composed of two components, unencumbered liquid financial assets and equity, both of which must be sufficient to cover the greater of (1) the cost to implement the recovery or orderly wind-down plan and (2) six months of operating expenses, as described above. Proposed § 234.3(a)(15)(i)(A) requires the designated FMU to hold liquid financial

assets, such as cash and highly liquid securities, sufficient to cover the greater of the two calculated costs described above.[38] The liquid financial assets must also be unencumbered by creditor claims or liens. In addition, proposed § 234.3(a)(15)(i)(B) requires the designated FMU to hold equity in the form of common stock, disclosed reserves, and other retained earnings, that is at all times greater than or equal to the amount of unencumbered liquid financial assets held under paragraph (A).

For cases in which a designated FMU is subject to international risk-based capital standards or other relevant Board-imposed capital requirements, the Board, at its discretion, may allow a designated FMU to use the equity held for this purpose towards the designated FMU's equity requirement in proposed § 234.3(a)(15)(i)(B) to avoid duplicate capital requirements. Further, the Board, at its discretion, may allow a designated FMU that is part of a larger legal entity with multiple business lines that do not each have a separate balance sheet to meet the requirement by using unencumbered liquid financial assets and equity held at the legal entity level.

Calculating recovery or orderly wind-down costs. Costs to implement the recovery or orderly wind-down plan are those direct, support, and overhead costs that the designated FMU would incur in a recovery or wind-down scenario. In determining these costs, the designated FMU should first consider reasonable scenarios where general business losses could cause it to need to recover or wind down. The appropriate scenarios will depend on the designated FMU's organizational structure and market environment. The designated FMU should then determine the appropriate time period for a recovery or orderly wind-down when faced with these scenarios and calculate the costs that would be incurred. A designated FMU should also include in its analysis the possibility that the designated FMU may have to wind-down after an initial attempt to recover. In calculating its recovery or orderly wind-down costs, the designated FMU should consider additional, extraordinary costs related to a recovery or wind-down, such as additional legal expenses and costs associated with retaining staff (such as retention bonuses). The designated FMU may also remove from its calculation those normal business operating expenses that would not be incurred in a recovery or wind-down scenario, such as certain marketing costs.

Calculating six months of current operating expenses. At a minimum, a designated FMU must hold six months of current operating expenses. This is a minimum requirement for all designated FMUs, irrespective of their organizational and ownership structure, as well as charter type, that creates a level playing field among different types of FMUs. When calculating its current operating expenses, the designated FMU is expected to consider its normal business operating expenses. These expenses are those that are typically categorized as either ''cost of sales'' or ''selling, general, and administrative expenses'' on the designated FMU's income statement. Therefore, these costs may exclude, among other items, depreciation and amortization expenses, taxes, and interest on debt.

Further, proposed § 234.3(a)(15)(ii) requires a designated FMU to develop and maintain a viable capital plan for raising additional equity before its equity falls below the amount required. In developing this plan, the designated FMU should consider its ownership structure and any insured business risks. Given the contingent nature of insurance, a designated FMU should use conservative assumptions when taking insurance into account for its capital plan, and these resources may not be taken into account when assessing the designated FMU's capital adequacy. A designated FMU's capital plan must be approved by the board of directors and updated at least annually.

Proposed § 234.3(a)(15) is a new standard in Regulation HH. The proposed standard reflects existing Board supervisory expectations for a financial institution to manage appropriately its general business risk, including through the use of financial and internal controls. The proposed capital requirement to maintain liquid net assets funded by equity equal to at least six months of current operating expenses is also generally consistent with past and current Board supervisory practice. Before the passage of the Dodd-Frank Act, the Board required certain FMUs under its jurisdiction to hold sufficient resources to ensure a recovery or orderly wind-down of critical operations and services. In determining the appropriate level of capital for an FMU, the Board considered three factors: (1) Initial capital should be sufficient to absorb any projected start-up operating losses and limited business losses in its early operation; (2) capital should be sufficient to cover costs of continued operations during an orderly wind-down; and (3) capital should be sufficient at all times to meet any minimum regulatory requirements. Therefore, although the proposed standard is new to Regulation HH, its objectives are consistent with the prudential objectives of the Board's supervisory process that existed prior to the Act. The Board recognizes that the incremental burden may vary by designated FMU.

With respect to proposed § 234.3(a)(15), the Board requests comment on the following specific questions:

Q.15.1 Should the Board set a minimum amount of liquid net assets funded by equity that is different from the six-month minimum international standard, such as *three* or *nine* months of current operating expenses? Should the Board set the requirement based on the risk profile of the designated FMU? If so, what factors should the Board consider and what would be the effects of such an approach?

Q.15.2 Should the Board require a designated FMU that is part of a larger legal entity to take into account, when calculating the cost to implement its recovery or orderly wind-down plans, recovery or wind-down scenarios in which other business lines in the legal entity or the legal entity itself may also face an adverse business environment? To prepare for such scenarios, should the designated FMU include in its calculation of recovery or wind-down costs more than its normal business share of any shared support and overhead costs?

Q.15.3 For designated FMUs that are part of a larger legal entity, the Board considered the alternative of requiring the designated FMU to hold liquid net assets funded by equity that are specific to the FMU itself to meet the requirement, but believes that it would likely be difficult to implement in practice. Are there any reasonable methodologies for determining which of the liquid net assets and equity held at the legal entity level belong to a particular business line?

16. Custody and Investment Risks

Proposed § 234.3(a)(16) requires the designated FMU to minimize and manage the custody and investment risks associated with its own and its participants' assets.[39] Custody risk is the risk of loss on assets held in custody in the event of a custodian's (or subcustodian's) insolvency, negligence, fraud, poor administration, or

[38] If the designated FMU does not hold cash or cash equivalents, the assets held should be sufficiently liquid so that they can be liquidated to match the cash outflows projected under the recovery or wind-down plans.

[39] The proposed standard replaces § 234.4(a)(3) under current Regulation HH for central securities depositories and central counterparties and extends the requirement explicitly by regulation to payment systems.

inadequate recordkeeping. Investment risk is the risk of loss faced by an FMU when it invests its own or its participants' assets. Situations that create custody and investment risks may prevent a designated FMU from having prompt access to its own assets or its participants' assets at the expected value when needed. Problems with access could result in financial losses incurred by the FMU, participants, and other parties and damage the designated FMU's reputation or perceived reliability.

Proposed § 234.3(a)(16)(i) requires a designated FMU to safeguard its own and its participants' assets and minimize the risk of loss on and delay in access to these assets by holding its own and its participants' assets at supervised and regulated entities that have robust accounting practices, safekeeping procedures, and internal controls that fully protect the assets. A designated FMU must also evaluate and consider the full scope of its relationship with and exposures to its custodian banks. For example, a custodian bank may also be a participant in the designated FMU, as well as the designated FMU's settlement bank or liquidity provider. Understanding these different relationships is necessary to avoid excessive concentration or exposure to an individual financial institution.

Under proposed § 234.3(a)(16)(ii), if a designated FMU invests its own and its participants' assets, it is required to invest the assets in instruments with minimal credit, market, and liquidity risks, such as investments that are secured by, or are claims on, high-quality obligors and investments that allow for quick liquidation with little, if any, adverse price effect. A designated FMU must use an investment strategy that is consistent with its overall risk-management strategy and fully disclosed to its participants. The alignment of investment and risk-management strategies and the disclosure of the investment strategies can help ensure that investment choices do not allow the pursuit of profit to compromise the designated FMU's financial soundness and liquidity management. A designated FMU must also consider its overall credit risk exposures to individual obligors, including relationships with the obligor that create additional exposures, such as when the obligor is also a participant or an affiliate of a participant in the designated FMU.

17. Operational Risk

Proposed § 234.3(a)(17) requires the designated FMU to manage its operational risk by establishing a robust operational risk-management framework that is approved by the board of directors.[40] Operational risk is the risk that deficiencies in information systems, internal processes, and personnel or disruptions from external events will result in the deterioration or breakdown of services provided by an FMU. Vulnerabilities to and threats against the designated FMU's physical security or information security, including cyber security, also present operational risk.

Under the proposed rule, a designated FMU must establish a framework to manage its operational risk. Proposed § 234.3(a)(17)(i) requires the designated FMU to identify the plausible sources of operational risk, both internal and external, and mitigate their impact through the use of appropriate systems, policies, procedures, and controls that are reviewed, audited, and tested periodically, as well as after major changes that could affect the source or level of operational risk that is present in the designated FMU. In addition, proposed § 234.3(a)(17)(ii) requires the designated FMU to identify, monitor, and manage the risks its operations might pose to other FMUs.

Proposed 234.3(a)(17)(iii) requires the designated FMU to have policies and systems that are designed to achieve clearly defined objectives to ensure a high degree of security and operational reliability. Proposed 234.3(a)(17)(iv) requires the designated FMU to have systems that have adequate, scalable capacity to handle increasing stress volumes and achieve the designated FMU's service-level objectives. Proposed 234.3(a)(17)(v) requires the designated FMU to have comprehensive physical, information, and cyber security policies, procedures, and controls that address potential and evolving vulnerabilities and threats.

Proposed § 234.3(a)(17)(vi) and (vii) address the designated FMU's business continuity management. The designated FMU must have business continuity management that aims for rapid recovery and timely resumption of critical operations and fulfillment of the designated FMU's obligations, under a range of scenarios, including a wide-scale or major disruption. Specifically, a designated FMU must have a business continuity plan that incorporates the use of a secondary site located at a sufficient geographical distance from the primary site to have a distinct risk profile, such that, for example the sites are not located in the same hurricane zone or on the same fault line. Further, the business continuity plan must be designed to ensure that critical information technology systems can recover and resume operations within two hours after the disruptive events and to enable the designated FMU to complete settlement by the end of the day of the disruption, even in case of extreme circumstances. Further, the business continuity plan must be tested at least annually and more frequently where appropriate.

Sources of operational risk change over time and with advancements in technology. Although the operational risk standard has historically been applied through the lens of a disruption that causes physical damage to infrastructure or equipment (that is, physical threats or attacks), the Board believes, in general, that a designated FMU should take into account cyberattacks and threats when establishing its business continuity plans. The PFMI also makes explicit references to cyberattacks, which suggests that the traditional view on operational risk has evolved internationally. Cyberattacks can reach far beyond the geographical distance that any physical attack can reach. While cyberattacks may present different challenges than physical attacks, the need for rapid recovery and timely resumption in response to cyberattacks is equally necessary.

The Board recognizes, however, that there is ongoing work and discussion domestically and internationally on developing operational risk-management standards and planning for business continuity with respect to cyber security and responses to cyberattacks. Further, certain standards or responses originally intended to address physical attacks may not be appropriate for certain types of cyberattacks. For example, the proposed two-hour recovery time objective (a longstanding industry objective and Board requirement) may present challenges in the near term for extreme cyberattacks that could corrupt data or software from not just the designated FMU's primary site but also its geographically distance backup site(s). The Board anticipates addressing with designated FMUs through the supervisory process reasonable

[40] For similar corresponding standards under current Regulation HH, see § 234.3(a)(7) for payment systems and § 234.4(a)(4) for central securities depositories and central counterparties. The proposed standard is also consistent with the requirements in the Federal Financial Institutions Examination Council (FFIEC) IT Handbook, Board Supervision and Regulation (SR) Letter 03–9 on the Interagency Paper on Sound Practices for the Resilience of the U.S. Financial System, SR Letter 07–18 on Pandemic Planning, and SR Letter 05–23 on Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice.

approaches to cyberattacks in the context of the evolving risk and technological environment.

The requirement to consider cyberattack scenarios in a designated FMU's business continuity planning may, in some respects, constitute a heightened requirement. In an environment where cyberattacks have become increasingly sophisticated and far-reaching, a designated FMU must plan for recovery and resumption of operations in these scenarios. The inability of a designated FMU to respond in a timely manner to cyberattacks could compromise the integrity of the financial markets. In addition, planning for such scenarios also would be in accordance with national policies aimed at improving the cybersecurity posture of U.S. critical infrastructures. The Board recognizes that there may be additional costs associated with development of business continuity plans and establishment of any systems and controls to accommodate different scenarios of cyberattacks.

With respect to proposed § 234.3(a)(17), the Board requests comment on the following specific questions related to cyberattacks:

Q.17.1 What types of changes to a designated FMU's current systems, policies, procedures, and controls will be necessary to reasonably ensure that its critical information technology systems can recover and resume operations no later than two hours following disruptive events caused by cyberattacks?

Q.17.2 What are reasonable estimates of the costs and other challenges associated with these changes?

18. Access and Participation Requirements

Proposed § 234.3(a)(18) requires the designated FMU to have objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access.[41] Access refers to the ability to use a designated FMU's services by direct participants and, where relevant, indirect participants and service providers. These participation requirements should not be subjective or overly restrictive because fair and open access to a designated FMU helps support the stability of the financial system. Fair and open access may help avoid the concentration of financial activity (and therefore risk) into a few large participants. Broad participation in a designated FMU can also increase the effectiveness of multilateral netting arrangements, facilitate crisis management by applying a consistent set of rules and procedures (for example, default management and loss mutualization), encourage competition among participants, promote efficiency, and improve overall market transparency.

Unlimited access to an FMU, however, can pose a wide variety of risks to the FMU. A designated FMU can control these risks by setting reasonable risk-based participation requirements to ensure that participants have the requisite operational capacity, financial resources, legal powers, and risk-management expertise to prevent unacceptable risk exposure for the designated FMU and its other participants. Therefore, balancing fair and open access with reasonable risk-based participation requirements can promote robust risk management, promote the safety and soundness of the designated FMU, reduce systemic risk, and support the stability of the broader financial system.

Under proposed § 234.3(a)(18), a designated FMU is required to control the risks to which it is exposed from its participants by setting objective, risk-based, and publicly disclosed requirements for participants in its services, including designing the criteria to ensure that participants meet appropriate operational, financial, and legal requirements that allow them to meet their obligations to the FMU or other participants on a timely basis. Although a designated FMU may use risk-based measures in determining access, the requirements should be objective and should not unnecessarily discriminate against particular classes of participants or introduce competitive distortions. Participation requirements must be justified in terms of the safety and efficiency of the designated FMU and the markets it serves, and tailored to and commensurate with the designated FMU's specific risks. Overall, risk-based, as well as other participation requirements, should aim to have the least restrictive impact on access needed to achieve their objectives.

Under proposed § 234.3(a)(18)(i), a designated FMU must monitor compliance with its access and participation criteria on an ongoing basis. Further, it must have the authority to impose more-stringent requirements and other risk controls on a participant in situations where the designated FMU determines that the participant poses heightened risk to the FMU. The proposed rule allows the designated FMU to require participants to report any developments that may affect their ability to comply with the designated FMU's requirements. If a participant's creditworthiness declines, the designated FMU can then require the participant to provide additional collateral or reduce the participant's credit limit. Under proposed § 234.3(a)(18)(ii), the designated FMU must clearly define and publicly disclose its procedures for facilitating the suspension and orderly exit of a participant that fails to meet the designated FMU's access and participation criteria.

19. Tiered Participation Arrangements

Proposed § 234.3(a)(19) requires the designated FMU to identify, monitor, and manage the material risks to the designated FMU arising from tiered participation arrangements. Tiered participation arrangements occur when other firms (indirect participants) rely on the services provided by direct participants to use the designated FMU's central payment, clearing, or settlement facilities. Indirect participants are not bound by the rules of the designated FMU, but their transactions are cleared or settled through the FMU by way of a direct participant that has a contractual relationship with the FMU. As a result, the transactions of indirect participants may pose credit, liquidity, operational, and other risks to the FMU. If these risks are not managed effectively by the direct participants of the FMU or the FMU itself, these risks can affect the safety and soundness of the FMU and pose systemic risk to other market participants and FMUs.

Under the proposed rule, a designated FMU is required to identify the types of risk that could arise from tiered participation arrangements and monitor concentrations of such risk. If a designated FMU is exposed to material financial or operational risk from tiered participation arrangements, the FMU should seek to manage and limit the risk. The Board recognizes that there are limits to the extent to which a designated FMU can influence direct participants' commercial relationships with their customers. Nonetheless, the FMU should not ignore risks that can significantly affect its operations. A designated FMU may have access to information on transactions undertaken on behalf of indirect participants that would allow it to evaluate and take steps to manage any risks posed by the indirect participants. For example, a designated FMU can set expectations in

[41] For similar corresponding standards under current Regulation HH, see § 234.3(a)(7) for payment systems and § 234.4(a)(2) for central securities depositories and central counterparties.

its membership agreements with its direct participants regarding information on transactions undertaken on behalf of their customers in order to evaluate the proportion of customer business relative to the direct participant's proprietary business. A regular review of the risks to which the designated FMU may be exposed as a result of tiered participation arrangements may also be beneficial to determining whether any mitigating actions are necessary.

In order to determine whether it faces material risks arising from tiered participation, a designated FMU could gather basic information on indirect participants in order to identify (a) the proportion of activity that direct participants conduct on behalf of indirect participants, (b) direct participants that act on behalf of a material number of indirect participants, (c) indirect participants with significant volumes or values of transactions in the system, and (d) indirect participants whose transaction volumes or values are large relative to those of the direct participants through which they access the FMU. A designated FMU's analysis would also benefit from identifying material dependencies between direct and indirect participants that might affect the FMU. For example, the FMU could determine whether a large proportion of the transactions processed by the designated FMU originates from indirect participants and, as a result, creates a material dependency on the operational or financial performance of a few direct participants.

Proposed § 234.3(a)(19) is a new rule and may impose an additional cost or burden on designated FMUs. The Board believes this requirement is necessary because the dependencies and risk exposures inherent in tiered participation arrangements can present risks to the designated FMU and its smooth functioning and the broader financial markets. If a designated FMU has few direct participants, but many indirect participants, the disruption to the services of one or more of these few direct participants could present risk to the smooth functioning of the market the designated FMU serves. In addition, if the value of an indirect participant's transactions is large relative to the direct participant's ability to manage risks, the direct participant's default risk may be greater.

With respect to proposed § 234.3(a)(19), the Board requests comment on the following specific questions:

Q.19.1 What, if any, risks do tiered participation arrangements pose to a payment system? How would a payment system assess these risks?

Q.19.2 What types of information would be helpful to assess the risks posed by indirect participants to a designated FMU? Is it feasible for a payment system to collect this information?

Q.19.3 How, if at all, should the Board define the threshold for identifying indirect participants responsible for a significant proportion of transactions processed by the designated FMU?

Q.19.4 How, if at all, should the Board define the threshold for identifying indirect participants whose transaction volumes or values are large relative to the capacity of the direct participants through which the indirect participants access the designated FMU?

Q.19.5 How often should a designated FMU review the potential risks from tiered participation arrangements?

20. Links to Other Financial Market Utilities

Proposed § 234.3(a)(20) requires a designated FMU that operates as a central counterparty, securities settlement system, or central securities depository and that establishes a link with one or more of these types of FMU to identify, monitor, and manage link-related risks.[42] FMU links, as defined in proposed § 234.2(f), can reduce transaction costs and increase market efficiency, but they may also serve as an avenue for contagion of market stress between FMUs and markets. Links can expose a designated FMU to legal risk, where the laws and rules governing the linked FMUs differ; operational risk, where operational failures in one FMU may have implications for other linked FMUs; and financial risk, where the failure or default of a participant in one FMU may impact a linked FMU. Any of these risks individually or in combination could pose systemic risk and threaten the stability of the broader financial system. Therefore, a designated FMU should manage and mitigate to the greatest extent practicable the risks that arise from its link arrangements.

Under the proposed rule, a designated FMU that establishes a link is required to identify, monitor, and manage the risks related to the link, which may include legal, operational, credit, and liquidity risks. The identification, monitoring, and management of link-related risks begin before the designated FMU enters into the arrangement in order to identify, monitor, and manage all potential sources of risk arising from the link arrangement. A link must have a well-founded legal basis in all relevant jurisdictions. Further, a designated FMU must measure, monitor, and manage the credit and liquidity risks arising from a link to another FMU. Credit extensions between linked FMUs must be covered fully with a high degree of confidence with high-quality collateral. In particular, a designated FMU that operates as a central counterparty in a link arrangement with another central counterparty must cover, at least on a daily basis, its current and potential future exposures to the linked central counterparty and its participants, if any, fully with a high degree of confidence without reducing the designated FMU's ability to fulfill its obligations to its own participants. A designated FMU that establishes a link with another FMU must also ensure that the arrangement provides a high level of protection for the rights of its participants. Furthermore, a designated FMU that establishes multiple links must ensure that the risks generated in one link do not affect the soundness of the other links and linked FMUs. Links must be designed so that the designated FMU can comply with the other standards proposed in this regulation.

21. Efficiency and Effectiveness

Proposed § 234.3(a)(21) requires a designated FMU to be efficient and effective in meeting the requirements of its participants and the markets it serves.[43] Efficiency generally encompasses what an FMU chooses to do, how it does it, and the resources required by the designated FMU to perform its functions. Effectiveness refers to whether the designated FMU is meeting its goals and objectives, which include the requirements of its participants and the markets it serves. A designated FMU that is designed or managed inefficiently or ineffectively may ultimately distort financial activity and market structure, increasing not only the credit, liquidity, and other risks of the FMU's participants, but also the risks of their customers and other end users.

There is an inherent tradeoff between safety (that is, risk management) and efficiency (that is, direct and indirect costs) in the design and management of

[42] The proposed standard replaces § 234.4(a)(7) under current Regulation HH for central securities depositories and central counterparties. Links to payment systems are addressed in proposed § 234.3(a)(9) and are not covered under this standard.

[43] For similar corresponding standards under current Regulation HH, see § 234.3(a)(8) for payment systems and § 234.4(a)(6) for central securities depositories and central counterparties.

a designated FMU. A designated FMU's design; operating structure; scope of payment, clearing, and settlement activities; and use of technology can influence its efficiency and can ultimately provide incentives for market participants to use, or not use, the designated FMU's services. In certain cases, inefficiently designed systems may increase operational costs to the point at which it would be cost prohibitive for participants to use the designated FMU. As a result, the inefficiency could drive market participants toward less-safe alternatives, such as bilateral clearing or settlement on the books of the participants. In such cases, risks to the market participants increase as they seek less-safe opportunities to lower direct costs; this behavior may reintroduce risk into the market that the designated FMU was intended to mitigate. Therefore, designated FMUs should be efficient and effective in their design and operations.

Under proposed § 234.3(a)(21)(i), a designated FMU must be efficient and effective with regard to (A) its clearing and settlement arrangement (for example, gross, net, or hybrid settlement; real time or batch processing; and novation or guarantee scheme); (B) risk-management policies, procedures, and systems; (C) scope of products cleared or settled; and (D) the use of technology and communication procedures. To help maintain system efficiency, the designated FMU's system design must be sufficiently flexible to respond to changing demand and new technologies.

Under proposed § 234.3(a)(21)(ii), a designated FMU must have clearly defined goals and objectives that are measureable and achievable, such as minimum service levels (for example, the time it takes to process a transaction), risk-management expectations (for example, the level of financial resources it should hold), and business priorities (for example, the development of new services). Under proposed § 234.3(a)(21)(iii), a designated FMU must have policies and procedures for the regular review of its efficiency and effectiveness. To be ''effective,'' a designated FMU must reliably meet its obligations in a timely manner, including service and security requirements, and achieve the public policy goals of safety and efficiency for participants and the markets it serves.

22. Communication Procedures and Standards

Proposed § 234.3(a)(22) requires the designated FMU to use, or at a minimum accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, and settlement. The use of internationally accepted communication procedures and standards can reduce the number of errors, avoid information losses, and reduce transaction and processing costs, which helps reduce operational risk faced by a designated FMU, its participants, and the broader markets. Further, lower transaction costs associated with the use or accommodation of internationally accepted communication procedures and standards can promote participation in the designated FMU by a broad set of financial institutions in various locations. Therefore, the use or accommodation of internationally accepted communication procedures and standards supports robust risk management, promotes the safety and soundness of designated FMUs, and supports the stability of the broader financial system.

Under the proposed rule, a designated FMU must use or accommodate internationally accepted communication procedures, messaging standards, and reference data standards that provide a common set of rules across systems for exchanging messages and allow a broad set of systems and institutions in various locations to communicate efficiently and effectively. A designated FMU, alternatively or additionally, may communicate with other systems by supporting systems that translate or convert internationally accepted procedures and standards into those used by the designated FMU.

Proposed § 234.3(a)(22), although new to Regulation HH as an explicit requirement, codifies the Board's existing supervisory requirements for the payment, clearing, or settlement systems under its authority.[44] Designated FMUs subject to the Board's authority already use, or at minimum accommodate, the relevant internationally accepted communications procedures.

23. Disclosure of Rules, Key Procedures, and Market Data

Proposed § 234.3(a)(23) requires the designated FMU to disclose relevant information about its operations and risk management to its participants and to the public.[45] Such transparency allows a designated FMU's participants, relevant authorities, and the broader public to understand better the activities and structure of the designated FMU, its risk profile, and its risk-management practices and to compare such characteristics across similar types of FMUs. Disclosure of relevant information by a designated FMU can thus support sound decisionmaking by these stakeholders. Participants can use this information to assess and manage more effectively any risks posed to them by the designated FMU. Relevant authorities can use this information to better assess the designated FMU's observance of the risk-management standards, help identify possible risks, and inform their cooperative or coordination efforts with the Board. Relevant authorities can include those supervising the participants of the designated FMU. These authorities can use the information disclosed by the FMU to better assess the risks posed to the financial institutions they supervise. Disclosure to the public helps potential participants make informed decisions on whether to become members of the designated FMU and promotes confidence in the markets served by the FMU. Thus, transparency by a designated FMU promotes robust risk management, reduces systemic risk, and supports the stability of the broader financial system.

Under proposed § 234.3(a)(23)(i) and (ii), a designated FMU must have clear and comprehensive rules and procedures and disclose publicly all rules and key procedures, including key aspects of its default rules and procedures. An FMU's rules and procedures are typically the foundation of the FMU and provide the basis for participants' and potential participants' understanding of the risks they incur by participating in the FMU. Rules and procedures should include clear descriptions of the system's design and operations as well as the participants' and the FMU's rights and obligations. In addition to disclosing all relevant rules and key procedures, the FMU should have a clear and fully disclosed process for proposing and implementing changes to its rules and procedures and for informing participants and relevant authorities of these changes.

Under proposed § 234.3(a)(23)(iii), the designated FMU must provide sufficient information to enable participants to have an accurate understanding of the risks, fees, and other material costs they incur by participating in the designated FMU. An FMU should provide all

[44] For example, this standard is consistent with the existing supervisory expectations for systemically important central securities depositories and central counterparties in section C.2.a.xvi of part I of the PSR policy.

[45] For similar corresponding standards under current Regulation HH, see § 234.3(a)(2) for payment systems and § 234.4(a)(9) for central securities depositories and central counterparties.

documentation, training, and information necessary to facilitate participants' understanding of the rules and procedures and the risk they face from participating in the FMU. For example, an FMU should disclose to each individual participant the stress test scenarios used, the individual participant's stress-test results, aggregate stress-test results, and other data to help each participant understand and manage the potential financial risks stemming from its participation in the FMU. An FMU should also disclose to its participants the key highlights of its business continuity arrangements, without revealing information that can create vulnerabilities for the FMU or undermine its safety and soundness.

Under proposed § 234.3(a)(23)(iv), the designated FMU must provide a comprehensive public disclosure on its legal, governance, risk management, and operating framework. The public disclosure must include (A) an executive summary, (B) a summary of major changes since the last update of the disclosure, (C) general background information on the designated FMU, (D) a narrative for each standard that summarizes the designated FMU's approach to complying with the standard, and (E) a list of publicly available resources that provide further information on the designated FMU. The general background information required under proposed § 234.3(a)(23)(iv)(C) must include (I) the designated FMU's function and the markets it serves, (II) basic data and performance statistics on its services and operations, such as basic volume and value statistics by product type, average aggregate intraday exposures to its participants, and statistics on the designated FMU's operational reliability, and (III) a description of the designated FMU's general organization, legal and regulatory framework, and system design and operations. Data provided should be accompanied by robust explanatory documentation that enables readers to understand and interpret the data correctly.

Under proposed § 234.3(a)(23)(iv)(D), the designated FMU's disclosure framework must include a standard-by-standard summary narrative. This section must provide a narrative for each applicable principle with sufficient detail and context to enable a reader to understand the FMU's approach to observing the principle. A designated FMU may look to the guiding questions in the CPSS–IOSCO *Principles for Financial Market Infrastructures: Disclosure Framework and Assessment Methodology* as background to understand the level and type of detail that the Board expects to be included in the disclosure. Further, cross-references to publicly available documents should be included, where relevant, to supplement the narrative.

Under proposed § 234.3(a)(23)(v), a designated FMU must update the public disclosure under (iv) of this part every two years, or more frequently following changes to its system or the environment in which it operates, which would significantly change the accuracy of the statements provided the public disclosure.

The proposed standard contains two requirements that may be new for at least one designated FMU subject to Regulation HH. The proposed standard makes more explicit that a designated FMU should disclose relevant rules and key procedures and provide a comprehensive disclosure to the public. The Board does not expect that disclosure of rules and key procedures will impose a significant burden on designated FMUs because they already have these rules available; the cost of posting them on their Web sites should be minimal. An FMU's initial comprehensive disclosure may be more costly to produce, but the Board expects that a designated FMU will leverage, where possible, the narratives from the self-assessment against the previous sets of international standards that it currently prepares under the PSR policy. Further, future updates to the comprehensive disclosure should impose a minimal burden unless there are significant changes to the designated FMU's governance, operations, or risk-management framework.

The Board believes that such transparency is essential to promoting robust risk management, reducing systemic risk, and enhancing financial stability because it allows the public, including market participants, to understand an FMU's operations and better predict its actions in a crisis. This, in turn, allows participants to manage any risks posed to them from the FMU's actions and thereby limit systemic risk and enhance financial stability.

With respect to proposed § 234.3(a)(23), the Board requests comment on the following specific question:

Q.23.1 Should the Board require information about fees and discount policies to be part of the designated FMU's public disclosure framework? Why should the Board not require disclosure of fees and discount policies?

III. Administrative Law Matters

A. Regulatory Flexibility Act Analysis

Congress enacted the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) to address concerns related to the effects of agency rules on small entities, and the Board is sensitive to the impact its rules may impose on small entities. The RFA requires agencies either to provide an initial regulatory flexibility analysis with a proposed rule or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. In accordance with section 3(a) of the RFA, the Board has reviewed the proposed regulation. In this case, the proposed rule would apply to FMUs that are designated by the Council under Title VIII of the Dodd-Frank Act as systemically important to the U.S. financial system. In July 2012, the Council designated eight FMUs as systemically important. Based on current information, none of the designated FMUs are ''small entities'' for purposes of the RFA, and so, the proposed rule likely would not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)). The following Initial Regulatory Flexibility Analysis, however, has been prepared in accordance with 5 U.S.C. 603, based on current information. The Board will, if necessary, conduct a final regulatory flexibility analysis after consideration of comments received during the public comment period. The Board requests public comment on all aspects of this analysis.

1. *Statement of the need for, objectives of, and legal basis for, the proposed rule.* The Board is proposing these revisions to Regulation HH to implement certain provisions of Title VIII of the Dodd-Frank Act. Section 805(a)(1)(A) of the Dodd-Frank Act requires the Board to prescribe risk-management standards governing the operations related to the payment, clearing, and settlement activities of certain designated FMUs. In prescribing the risk-management standards, section 805(a)(1) of the Act requires the Board to take into consideration, among other things, the relevant international standards. As noted above, the CPSS and IOSCO finalized the PFMI in April 2012. The Board believes that the PFMI is now widely recognized as the most relevant set of international risk-management standards for payment, clearing, and settlement systems and the risk-management standards in Regulation HH should be updated in consideration of the PFMI. As described above, risk-management standards

based on the PFMI may improve upon the standards currently in Regulation HH and will further promote the objectives of the risk-management standards for designated FMUs set out in section 805(b) of the Dodd-Frank Act. The Board believes that the implementation of risk-management standards based on the PFMI by the relevant payment, clearing, and settlement systems and their regulators, both domestically and internationally, can help promote the safety and efficiency of these systems and financial stability more broadly. Widespread implementation also reduces potential conflicts among domestic and foreign authorities regarding prudential requirements for FMUs, and provides a more consistent framework among relevant domestic and foreign authorities for assessing the risks and risk management of FMUs with cross-market, cross-border, or cross-currency operations.

2. *Small entities affected by the proposed rule.* Pursuant to regulations issued by the Small Business Administration (SBA) (13 CFR 121.201), a ''small entity'' includes an establishment engaged in (i) financial transaction processing, reserve and liquidity services, and/or clearinghouse services with an average annual revenue of $35.5 million or less (NAICS code 522320); (ii) securities and/or commodity exchange activities with an average annual revenue of $35.5 million or less (NAICS code 523210); and (iii) trust, fiduciary, and/or custody activities with an average annual revenue of $35.5 million or less (NAICS code 523991). Based on current information, the Board does not believe that any of the FMUs that have been designated by the Council, and in particular the two designated FMUs for which the Board is the Supervisory Agency under Title VIII of the Dodd-Frank Act, would be ''small entities'' pursuant to the SBA regulation.

3. *Projected reporting, recordkeeping, and other compliance requirements.* The proposed rule imposes certain reporting and recordkeeping requirements for a designated FMU, such as proposed § 234.3(a)(3) that requires a designated FMU to have policies and procedures to identify, measure, monitor, and manage relevant risk and to develop recovery or orderly wind-down plans. The proposed rule also contains a number of compliance requirements that the designated FMU must meet, such as the designated FMU having a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions (proposed § 234.3(a)(1)). In addition, the proposed rule contains requirements for the maintenance of sufficient financial resources to address its credit risk (proposed § 234.3(a)(4)), liquidity risk (proposed § 234.3(a)(7)), and general business risk (proposed § 234.3(a)(15)). Professionals that the designated FMU needs to employ to comply with these standards may include experts skilled in the legal, risk management, finance, payments operations, and accounting areas.

4. *Identification of duplicative, overlapping, or conflicting Federal rules.* The Board does not believe that any Federal rules conflict with these proposed revisions to Regulation HH.

5. *Significant alternatives to the proposed rule.* The Board is not aware of any significant alternatives to the proposed rule that accomplish the stated objectives of the Dodd-Frank Act and that minimize any significant economic impact of the proposed rule on small entities. As noted above, the PFMI is now widely recognized as the most relevant set of international risk-management standards for payment, clearing, and settlement systems. The Board is proposing to revise the risk-management standards in Regulation HH in consideration of the current international standards. FMUs that are designated as systemically important by the Council and present similar risk profiles should be held to consistent standards, including compliance and reporting requirements, regardless of size, because they can present similar risk to the U.S. financial system. In addition, except as noted above, the proposed standards generally employ a flexible, principles-based approach to permit a designated FMU to employ a cost-effective method for compliance, so long as the method chosen achieves the risk-mitigation goals of the standard. Where necessary or appropriate, the proposed rule includes specific testing frequencies or other requirements. The Board included such detail in each proposed standard as it deemed necessary to provide the designated FMUs with sufficient guidance for compliance with the standard.

B. Competitive Impact Analysis

As a matter of policy, the Board subjects all operational and legal changes that could have a substantial effect on payment system participants to a competitive impact analysis, even if competitive effects are not apparent on the face of the proposal. Pursuant to this policy, the Board assesses whether proposed changes ''would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services'' and whether any such adverse effect ''was due to legal differences or due to a dominant market position deriving from such legal differences.'' If, as a result of this analysis, the Board identifies an adverse effect on the ability to compete, the Board then assesses whether the associated benefits—such as improvements to payment system efficiency or integrity—can be achieved while minimizing the adverse effect on competition.

Designated FMUs are subject to the supervisory framework established under Title VIII of the Dodd-Frank Act. This proposed rule promulgates revised Regulation HH risk-management standards for certain designated FMUs as required by Title VIII. At least one currently designated FMU that is subject to Regulation HH competes with a similar service provided by the Reserve Banks. Under the Federal Reserve Act, the Board has general supervisory authority over the Reserve Banks, including the Reserve Banks' provision of payment and settlement services (''Federal Reserve priced services''). This general supervisory authority is much more extensive in scope than the authority provided under Title VIII over designated FMUs. In practice, Board oversight of the Reserve Banks goes well beyond the typical supervisory framework for private-sector entities, including the framework provided by Title VIII.

The Board is committed to applying risk-management standards to the Reserve Banks' Fedwire Funds Service and Fedwire Securities Service that are at least as stringent as the applicable Regulation HH standards applied to designated FMUs that provide similar services. In a separate, related **Federal Register** notice, the Board proposes to revise concurrently part I of its PSR policy, which applies to the Federal Reserve priced services, in consideration of the PFMI. The proposed revisions to the risk-management and transparency expectations in part I of the PSR policy are consistent with those proposed for Regulation HH. Therefore, the Board does not believe the proposed rule promulgating risk-management standards for designated FMUs under Title VIII will have any direct and material adverse effect on the ability of other service providers to compete with the Reserve Banks.

C. Paperwork Reduction Act Analysis

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320, Appendix A.1), the

Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. For purposes of calculating burden under the Paperwork Reduction Act, a ''collection of information'' involves 10 or more respondents. Any collection of information addressed to all or a substantial majority of an industry is presumed to involve 10 or more respondents (5 CFR 1320.3(c), 1320.3(c)(4)(ii)). The Board estimates there are fewer than 10 respondents and these respondents do not represent all or a substantial majority of the participants in payment, clearing, and settlement systems. Therefore, no collections of information pursuant to the Paperwork Reduction Act are contained in the proposed rule.

IV. Text of Proposed Rule

List of Subjects in 12 CFR 234

Banks, Banking, Credit, Electronic funds transfers, Financial market utilities, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR, Chapter II as set forth below.

PART 234—DESIGNATED FINANCIAL MARKET UTILITIES (REGULATION HH)

■ 1. The authority citation for part 234 continues to read as follows:

Authority: 12 U.S.C. 5461 *et seq.*

■ 2. Revise § 234.2 as follows:

§ 234.2 Definitions.

(a) *Backtest* means the *ex post* comparison of realized outcomes with margin model forecasts to analyze and monitor model performance and overall margin coverage.

(b) *Central counterparty* means an entity that interposes itself between counterparties to contracts traded in one or more financial markets, becoming the buyer to every seller and the seller to every buyer.

(c) *Central securities depository* means an entity that provides securities accounts and central safekeeping services.

(d) *Designated financial market utility* means a financial market utility that is currently designated by the Financial Stability Oversight Council under section 804 of the Dodd-Frank Act (12 U.S.C. 5463).

(e) *Financial market utility* has the same meaning as the term is defined in section 803(6) of the Dodd-Frank Act (12 U.S.C. 5462(6)).

(f) *Link* means, for purposes of § 234.3(a)(20), a set of contractual and operational arrangements between two or more central counterparties, central securities depositories, or securities settlement systems that connect them directly or indirectly, such as for the purposes of participating in settlement, cross margining, or expanding their services to additional instruments and participants.

(g) *Recovery* means, for purposes of § 234.3(a)(3) and § 234.3(a)(15), the actions of a designated financial market utility, consistent with its rules, procedures, and other *ex ante* contractual arrangements, to address any uncovered credit loss, liquidity shortfall, capital inadequacy, or business, operational, or other structural weakness, including the replenishment of any depleted prefunded financial resources and liquidity arrangements, as necessary to maintain the designated financial market utility's viability as a going concern.

(h) *Securities settlement system* means an entity that enables securities to be transferred and settled by book entry and allows transfers of securities free of or against payment.

(i) *Stress test* means the estimation of credit or liquidity exposures that would result from the realization of potential stress scenarios, such as extreme price changes, multiple defaults, and changes in other valuation inputs and assumptions.

(j) *Supervisory Agency* has the same meaning as the term is defined in section 803(8) of the Dodd-Frank Act (12 U.S.C. 5462(8)).

(k) *Wind-down* means the actions of a designated financial market utility to effect the permanent cessation, sale, or transfer of one or more of its critical operations or services.

■ 3. In § 234.3, revise paragraph (a) to read as follows:

§ 234.3 Standards for designated financial market utilities.

(a) A designated financial market utility must implement rules, procedures, or operations designed to ensure that it meets or exceeds the following risk-management standards with respect to its payment, clearing, and settlement activities.

(1) *Legal basis.* The designated financial market utility has a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions.

(2) *Governance.* The designated financial market utility has governance arrangements that—

(i) Are clear, transparent, and documented;

(ii) Promote the safety and efficiency of the designated financial market utility;

(iii) Support the stability of the broader financial system, other relevant public interest considerations such as fostering fair and efficient markets, and the legitimate interests of relevant stakeholders, including the designated financial market utility's owners, participants, and participants' customers; and

(iv) Are designed to ensure—

(A) Lines of responsibility and accountability are clear and direct;

(B) The roles and responsibilities of the board of directors and senior management are clearly specified;

(C) The board of directors consists of suitable individuals having appropriate skills to fulfill its multiple roles;

(D) The board of directors includes a majority of individuals who are not executives, officers, or employees of the designated financial market utility or an affiliate of the designated financial market utility;

(E) The board of directors establishes policies and procedures to identify, address, and manage potential conflicts of interest of board members and to review its performance and the performance of individual board members on a regular basis;

(F) The board of directors establishes a clear, documented risk-management framework that includes the designated financial market utility's risk-tolerance policy, assigns responsibilities and accountability for risk decisions, and addresses decisionmaking in crises and emergencies;

(G) Senior management has the appropriate experience, skills, and integrity necessary to discharge operational and risk-management responsibilities;

(H) The risk-management function has sufficient authority, resources, and independence from other operations of the designated financial market utility, and has a direct reporting line to and is overseen by a committee of the board of directors;

(I) The internal audit function has sufficient authority, resources, and independence from management, and has a direct reporting line to and is overseen by a committee of the board of directors; and

(J) Major decisions of the board of directors are clearly disclosed to relevant stakeholders, including the designated financial market utility's owners, participants, and participants' customers, and, where there is a broad market impact, the public.

(3) *Framework for the comprehensive management of risks.* The designated

financial market utility has a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, general business, custody, investment, and other risks that arise in or are borne by the designated financial market utility. This framework is subject to periodic review and includes—

(i) Risk-management policies, procedures, and systems that enable the designated financial market utility to identify, measure, monitor, and manage the risks that arise in or are borne by the designated financial market utility, including those posed by other entities as a result of interdependencies;

(ii) Risk-management policies, procedures, and systems that enable the designated financial market utility to identify, measure, monitor, and manage the material risks that it poses to other entities, such as other financial market utilities, settlement banks, liquidity providers, or service providers, as a result of interdependencies; and

(iii) Plans for the designated financial market utility's recovery or orderly wind-down that—

(A) Identify the designated financial market utility's critical operations and services related to payment, clearing, and settlement;

(B) Identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern, including uncovered credit losses (as described in paragraph (a)(4)(vi)(A) of this section), uncovered liquidity shortfalls (as described in paragraph (a)(7)(viii)(A) of this section), and general business losses (as described in paragraph (a)(15) of this section);

(C) Identify criteria that could trigger the implementation of the recovery or orderly wind-down plans;

(D) Include rules, procedures, policies, and any other tools the designated financial market utility would use in a recovery or wind-down to address the scenarios identified under paragraph (a)(3)(ii)(B) of this section;

(E) Include procedures to ensure timely implementation of recovery or orderly wind-down plans in the scenarios identified under paragraph (a)(3)(ii)(B) of this section; and

(F) Include procedures for informing the Board, as soon as practicable, if the designated financial market utility is considering initiating the recovery or orderly wind-down plan.

(4) *Credit risk.* The designated financial market utility effectively measures, monitors, and manages its credit exposures to participants and those arising from its payment, clearing, and settlement processes. In this regard, the designated financial market utility maintains sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. In addition, the designated financial market utility—

(i) If it operates as a central counterparty, maintains additional prefunded financial resources that are sufficient to cover its credit exposure under a wide range of significantly different stress scenarios that includes the default of the participant and its affiliates that would potentially cause the largest aggregate credit exposure to the designated financial market utility in extreme but plausible market conditions;

(ii) If it operates as a central counterparty, may be directed by the Board to maintain additional prefunded financial resources that are sufficient to cover its credit exposure under a wide range of significantly different stress scenarios that includes the default of the two participants and their affiliates that would potentially cause the largest aggregate credit exposure to the designated financial market utility in extreme but plausible market conditions, if it—

(A) Is involved in activities with a more-complex risk profile, such as clearing financial instruments characterized by discrete jump-to-default price changes or that are highly correlated with potential participant defaults, or

(B) Has been determined by another jurisdiction to be systemically important in that jurisdiction;

(iii) If it operates as a central counterparty, determines the amount and regularly tests the sufficiency of the total financial resources available to meet the requirements of this paragraph by—

(A) On a daily basis, conducting a stress test of its total financial resources using standard and predetermined stress scenarios, parameters, and assumptions;

(B) On at least a monthly basis, and more frequently when the products cleared or markets served experience high volatility or become less liquid, or when the size or concentration of positions held by the central counterparty's participants increases significantly, conducting a comprehensive and thorough analysis of the existing stress scenarios, models, and underlying parameters and assumptions such that the designated financial market utility meets its required level of default protection in light of current and evolving market conditions; and

(C) Having clear procedures to report the results of its stress tests to decisionmakers at the central counterparty and using these results to evaluate the adequacy of and adjust its total financial resources;

(iv) If it operates as a central counterparty, excludes assessments for additional default or guaranty fund contributions (i.e., default or guaranty fund contributions that are not prefunded) in its calculation of financial resources available to meet the total financial resource requirement under this paragraph;

(v) At least annually, provides for a validation of the designated financial market utility's risk-management models used to determine the sufficiency of its total financial resources that—

(A) Includes the designated financial market utility's models used to comply with the collateral provisions under paragraph (a)(5) of this section and models used to determine initial margin under paragraph (a)(6) of this section; and

(B) Is performed by a qualified person who does not perform functions associated with the model (except as part of the annual model validation), does not report to such a person, and does not have a financial interest in whether the model is determined to be valid; and

(vi) Establishes rules and procedures that explicitly—

(A) Address allocation of credit losses the designated financial market utility may face if its collateral and other financial resources are insufficient to fully cover its credit exposures, including the repayment of any funds a designated financial market utility may borrow from liquidity providers; and

(B) Describe the designated financial market utility's process to replenish any financial resources that the designated financial market utility may employ during a stress event, including a participant default.

(5) *Collateral.* If it requires collateral to manage its or its participants' credit exposure, the designated financial market utility accepts collateral with low credit, liquidity, and market risks and sets and enforces conservative haircuts and concentration limits, in order to ensure the value of the collateral in the event of liquidation and that the collateral can be used in a timely manner. In this regard, the designated financial market utility—

(i) Establishes prudent valuation practices and develops haircuts that are tested regularly and take into account stressed market conditions;

(ii) Establishes haircuts that are calibrated to include relevant periods of stressed market conditions to reduce the need for procyclical adjustments;

(iii) Provides for annual validation of its haircut procedures, as part of its risk-management model validation under paragraph (a)(4)(vi) of this section;

(iv) Avoids concentrated holdings of any particular type of asset where the concentration could significantly impair the ability to liquidate such assets quickly without significant adverse price effects;

(v) Uses a collateral management system that is well-designed and operationally flexible such that it, among other things,—

(A) Accommodates changes in the ongoing monitoring and management of collateral; and

(B) Allows for the timely valuation of collateral and execution of any collateral or margin calls.

(6) *Margin.* If it operates as a central counterparty, the designated financial market utility covers its credit exposures to its participants for all products by establishing a risk-based margin system that—

(i) Is conceptually and methodologically sound for the risks and particular attributes of each product, portfolio, and markets it serves, as demonstrated by documented and empirical evidence supporting design choices, methods used, variables selected, theoretical bases, key assumptions, and limitations;

(ii) Establishes margin levels commensurate with the risks and particular attributes of each product, portfolio, and markets it serves;

(iii) Has a reliable source of timely price data;

(iv) Has procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable;

(v) Marks participant positions to market and collects variation margin at least daily and has the operational capacity to make intraday margin calls and payments, both scheduled and unscheduled, to participants;

(vi) Generates initial margin requirements sufficient to cover potential changes in the value of each participant's position during the interval between the last margin collection and the close out of positions following a participant default by—

(A) Ensuring that initial margin meets an established single-tailed confidence level of at least 99 percent with respect to the estimated distribution of future exposure; and

(B) Using a conservative estimate of the time horizons for the effective hedging or close out of the particular types of products cleared, including in stressed market conditions; and

(vii) Is monitored on an ongoing basis and regularly reviewed, tested, and verified through—

(A) Daily backtests;

(B) Monthly sensitivity analyses, performed more frequently during stressed market conditions or significant fluctuations in participant positions, with this analysis taking into account a wide range of parameters and assumptions that reflect possible market conditions that captures a variety of historical and hypothetical conditions, including the most volatile periods that have been experienced by the markets the designated financial market utility serves; and

(C) Annual model validations of the designated financial market utility's margin models and related parameters and assumptions, as part of its risk-management model validation under paragraph (a)(4)(v) of this section.

(7) *Liquidity risk.* The designated financial market utility effectively measures, monitors, and manages the liquidity risk that arises in or is borne by the designated financial market utility. In this regard, the designated financial market utility—

(i) Has effective operational and analytical tools to identify, measure, and monitor its settlement and funding flows on an ongoing and timely basis, including its use of intraday liquidity;

(ii) Maintains sufficient liquid resources in all relevant currencies to effect same-day and, where applicable, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of significantly different potential stress scenarios that includes the default of the participant and its affiliates that would generate the largest aggregate liquidity obligation for the designated financial market utility in extreme but plausible market conditions;

(iii) Holds, for purposes of meeting the minimum liquid resource requirement under paragraph (a)(7)(ii) of this section, cash in each relevant currency at the central bank of issue or creditworthy commercial banks or assets that are readily available and convertible into cash, through committed arrangements without material adverse change conditions such as—

(A) collateralized lines of credit;

(B) foreign exchange swaps; and

(C) repurchase agreements;

(iv) Evaluates and confirms, at least annually, whether each provider of the committed arrangements as described in paragraph (a)(7)(iii) of this section has sufficient information to understand and manage that provider's associated liquidity risks, and that the provider has the capacity to perform as required under this commitment;

(v) Maintains and tests its procedures and operational capacity for accessing each type of liquid resource required under this paragraph at least annually;

(vi) Determines the amount and regularly tests the sufficiency of the liquid resources necessary to meet the minimum liquid resource requirement under this paragraph by—

(A) On a daily basis, conducting a stress test of its liquid resources using standard and predetermined stress scenarios, parameters, and assumptions;

(B) On at least a monthly basis, and more frequently when products cleared or markets served experience high volatility or become less liquid, or when the size or concentration of positions held by the designated financial market utility's participants increases significantly, conducting a comprehensive and thorough analysis of the existing stress scenarios, models, and underlying parameters and assumptions such that the designated financial market utility meets its identified liquidity needs and resources in light of current and evolving market conditions; and

(C) Having clear procedures to report the results of its stress tests to decisionmakers at the designated financial market utility and using these results to evaluate the adequacy of and make adjustments to its liquidity risk-management framework;

(vii) At least annually, provides for a validation of its liquidity risk-management model by a qualified person who does not perform functions associated with the model (except as part of the annual model validation), does not report to such a person, and does not have a financial interest in whether the model is determined to be valid; and

(viii) Establishes rules and procedures that explicitly—

(A) Address potential liquidity shortfalls that would not be covered by the designated financial market utility's liquid resources and avoid unwinding, revoking, or delaying the same-day settlement of payment obligations; and

(B) Describe the designated financial market utility's process to replenish any liquid resources that it may employ during a stress event, including a participant default.

(8) *Settlement finality.* The designated financial market utility provides clear and certain final settlement intraday or in real time as appropriate, and at a minimum, by the end of the value date.

The designated financial market utility clearly defines the point at which settlement is final and the point after which unsettled payments, transfer instructions, or other settlement instructions may not be revoked by a participant.

(9) *Money settlements.* The designated financial market utility conducts its money settlements in central bank money where practical and available. If central bank money is not used, the designated financial market utility minimizes and strictly controls the credit and liquidity risks arising from conducting its money settlements in commercial bank money, including settlement on its own books. If it conducts its money settlements at a commercial bank, the designated financial market utility—

(i) Establishes and monitors adherence to criteria based on high standards for its settlement banks that take account of, among other things, their applicable regulatory and supervisory frameworks, creditworthiness, capitalization, access to liquidity, and operational reliability;

(ii) Monitors and manages the concentration of credit and liquidity exposures to its commercial settlement banks; and

(iii) Ensures that its legal agreements with its settlement banks state clearly—

(A) When transfers on the books of individual settlement banks are expected to occur;

(B) That transfers are final when funds are credited to the recipient's account; and

(C) That the funds credited to the recipient are available immediately for retransfer or withdrawal.

(10) *Physical deliveries.* A designated financial market utility that operates as a central counterparty, securities settlement system, or central securities depository clearly states its obligations with respect to the delivery of physical instruments or commodities and identifies, monitors, and manages the risks associated with such physical deliveries.

(11) *Central securities depositories.* A designated financial market utility that operates as a central securities depository has appropriate rules and procedures to help ensure the integrity of securities issues and minimizes and manages the risks associated with the safekeeping and transfer of securities. In this regard, the designated financial market utility maintains securities in an immobilized or dematerialized form for their transfer by book entry.

(12) *Exchange-of-value settlement systems.* If it settles transactions that involve the settlement of two linked obligations, such as a transfer of securities against payment or the exchange of one currency for another, the designated financial market utility eliminates principal risk by conditioning the final settlement of one obligation upon the final settlement of the other.

(13) *Participant-default rules and procedures.* The designated financial market utility has effective and clearly defined rules and procedures to manage a participant default that are designed to ensure that the designated financial market utility can take timely action to contain losses and liquidity pressures so that it can continue to meet its obligations. In this regard, the designated financial market utility tests and reviews its default procedures, including any close-out procedures, at least annually or following material changes to these rules and procedures.

(14) *Segregation and portability.* A designated financial market utility that operates as a central counterparty has rules and procedures that enable the segregation and portability of positions of a participant's customers and the collateral provided to the designated financial market utility with respect to those positions.

(15) *General business risk.* The designated financial market utility identifies, monitors, and manages its general business risk, which is the risk of losses that may arise from its administration and operation as a business enterprise (including losses from execution of business strategy, negative cash flows, or unexpected and excessively large operating expenses) that are neither related to participant default nor separately covered by financial resources maintained for credit or liquidity risk. In this regard, in addition to holding financial resources required to manage credit risk (paragraph (a)(4) of this section) and liquidity risk (paragraph (a)(7) of this section), the designated financial market utility—

(i) Maintains liquid net assets funded by equity that are at all times sufficient to ensure a recovery or orderly wind-down of critical operations and services such that it—

(A) Holds unencumbered liquid financial assets, such as cash or highly liquid securities, that are sufficient to cover the greater of—

(*1*) The cost to implement the recovery or wind down plan to address general business losses as required under § 234.3(a)(3)(iii) and

(*2*) Six months of current operating expenses or as otherwise determined by the Board; and

(B) Holds equity, such as common stock, disclosed reserves, and other retained earnings, that is at all times greater than or equal to the amount of unencumbered liquid financial assets that are required to be held under paragraph (a)(15)(i)(A) of this section; and

(ii) Maintains a viable plan, approved by the board of directors and updated at least annually, for raising additional equity before the designated financial market utility's equity falls below the amount required under paragraph (a)(15)(i) of this section.

(16) *Custody and investment risks.* The designated financial market utility—

(i) Safeguards its own and its participants' assets and minimizes the risk of loss on and delay in access to these assets by—

(A) Holding its own and its participants' assets at supervised and regulated entities that have accounting practices, safekeeping procedures, and internal controls that fully protect these assets; and

(B) Evaluating its exposures to its custodian banks, taking into account the full scope of its relationships with each; and

(ii) Invests its own and its participants' assets—

(A) In instruments with minimal credit, market, and liquidity risks, such as investments that are secured by, or are claims on, high-quality obligors and investments that allow for timely liquidation with little, if any, adverse price effect; and

(B) Using an investment strategy that is consistent with its overall risk-management strategy and fully disclosed to its participants.

(17) *Operational risk.* The designated financial market utility manages its operational risks by establishing a robust operational risk-management framework that is approved by the board of directors. In this regard, the designated financial market utility—

(i) Identifies the plausible sources of operational risk, both internal and external, and mitigates their impact through the use of appropriate systems, policies, procedures, and controls that are reviewed, audited, and tested periodically and after major changes;

(ii) Identifies, monitors, and manages the risks its operations might pose to other financial market utilities;

(iii) Has policies and systems that are designed to achieve clearly defined objectives to ensure a high degree of security and operational reliability;

(iv) Has systems that have adequate, scalable capacity to handle increasing stress volumes and achieve the

designated financial market utility's service-level objectives;

(v) Has comprehensive physical, information, and cyber security policies, procedures, and controls that address potential and evolving vulnerabilities and threats;

(vi) Has business continuity management that provides for rapid recovery and timely resumption of critical operations and fulfillment of its obligations, including in the event of a wide-scale disruption or a major disruption; and

(vii) Has a business continuity plan that—

(A) Incorporates the use of a secondary site that is located at a sufficient geographical distance from the primary site to have a distinct risk profile;

(B) Is designed to ensure that critical information technology systems can recover and resume operations no later than two hours following disruptive events;

(C) Is designed to enable it to complete settlement by the end of the day of the disruption, even in case of extreme circumstances; and

(D) Is tested at least annually.

(18) *Access and participation requirements.* The designated financial market utility has objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access. The designated financial market utility—

(i) Monitors compliance with its participation requirements on an ongoing basis and has the authority to impose more-stringent restrictions or other risk controls on a participant in situations where the designated FMU determines the participant poses heightened risk to the designated FMU; and

(ii) Has clearly defined and publicly disclosed procedures for facilitating the suspension and orderly exit of a participant that fails to meet the participation requirements.

(19) *Tiered participation arrangements.* The designated financial market utility identifies, monitors, and manages the material risks to the designated financial market utility arising from arrangements in which firms that are not members in the designated financial market utility rely on the services provided by direct participants to access the designated financial market utility's payment, clearing, or settlement facilities.

(20) *Links to other financial market utilities.* If it operates as a central counterparty, securities settlement system, or central securities depository and establishes a link with one or more of these types of financial market utilities, the designated financial market utility identifies, monitors, and manages risks related to this link. In this regard, each central counterparty in a link arrangement with another central counterparty covers, at least on a daily basis, its current and potential future exposures to the linked central counterparty and its participants, if any, fully with a high degree of confidence without reducing the central counterparty's ability to fulfill its obligations to its own participants.

(21) *Efficiency and effectiveness.* The designated financial market utility—

(i) Is efficient and effective in meeting the requirements of its participants and the markets it serves, in particular, with regard to its—

(A) Clearing and settlement arrangement;

(B) Risk-management policies, procedures, and systems;

(C) Scope of products cleared and settled; and

(D) Use of technology and communication procedures;

(ii) Has clearly defined goals and objectives that are measurable and achievable, such as minimum service levels, risk-management expectations, and business priorities; and

(iii) Has policies and procedures for the regular review of its efficiency and effectiveness.

(22) *Communication procedures and standards.* The designated financial market utility uses, or at a minimum accommodates, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, and settlement.

(23) *Disclosure of rules, key procedures, and market data.* The designated financial market utility—

(i) Has clear and comprehensive rules and procedures;

(ii) Publicly discloses all rules and key procedures, including key aspects of its default rules and procedures;

(iii) Provides sufficient information to enable participants to have an accurate understanding of the risks, fees, and other material costs they incur by participating in the designated financial market utility;

(iv) Provides a comprehensive public disclosure of its legal, governance, risk management, and operating framework, that includes—

(A) *Executive summary.* An executive summary of the key points from paragraphs (a)(23)(iv)(B) through (D) of this section;

(B) *Summary of major changes since the last update of the disclosure.* A summary of the major changes since the last update of paragraph (a)(23)(iv) (C), (D), or (E) of this section;

(C) *General background on the designated financial market utility.* A description of—

(*1*) The designated financial market utility's function and the markets it serves,

(*2*) Basic data and performance statistics on its services and operations, such as basic volume and value statistics by product type, average aggregate intraday exposures to its participants, and statistics on the designated financial market utility's operational reliability, and

(*3*) The designated financial market utility's general organization, legal and regulatory framework, and system design and operations;

(D) *Standard-by-standard summary narrative.* A comprehensive narrative disclosure for each applicable standard set forth in this paragraph (a) with sufficient detail and context to enable a reader to understand the designated financial market utility's approach to controlling the risks and addressing the requirements in each standard; and

(E) *List of publicly available resources.* A list of publicly available resources, including those referenced in the disclosure, that may help a reader understand how the designated financial market utility controls its risks and addresses the requirements set forth in this paragraph (a); and

(v) Updates the public disclosure under paragraph (a)(23)(iv) of this section every two years, or more frequently following changes to its system or the environment in which it operates that would significantly change the accuracy of the statements provided under paragraph (a)(23)(iv) of this section.

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§ 234.4 [Removed]

■ 4. Remove § 234.4.

§ 234.5 [Redesignated as § 234.4]

■ 5. Redesignate § 234.5 as § 234.4.

§ 234.5 [Added and Reserved]

■ 6. A new § 234.5 is added and reserved.

§ 234.6 [Removed and Reserved]

■ 7. Remove and reserve § 234.6.

By order of the Board of Governors of the Federal Reserve System, January 10, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–00682 Filed 1–21–14; 8:45 am]

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FEDERAL REGISTER

Vol. 79 Wednesday,

No. 14 January 22, 2014

Part III

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1222

Paper and Paper-Based Packaging Promotion, Research and Information Order; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1222

[Document Number AMS–FV–11–0069 FR]

RIN 0581–AD21

Paper and Paper-Based Packaging Promotion, Research and Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes a Paper and Paper-Based Packaging Promotion, Research and Information Order (Order). The purpose of the program is to maintain and expand markets for paper and paper-based packaging. The program will be financed by an assessment on paper and paper-based packaging manufacturers (domestic producers) and importers and administered by a board of industry members appointed by the Secretary of Agriculture (Secretary). The assessment rate will initially be $0.35 per short ton. The U.S. Department of Agriculture (Department or USDA) conducted a referendum among eligible manfacturers and importers from October 28 through November 8, 2013. Eighty-five percent of those voting in the referendum representing 95 percent of the volume of paper and paper-based packaging represented in the referendum favored implementation of the program.

DATES: *Effective date:* January 23, 2014.

Applicability date: Collection of assessments (sections 1222.52 and 1222.53) and appropriate reporting and recordkeeping (sections 1222.70 and 1222.71) will begin March 1, 2014.

FOR FURTHER INFORMATION CONTACT: Kimberly Spriggs, Marketing Specialist, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–9915 or (888) 720–9917 (toll free); or facsimile: (202) 205–2800; or electronic mail: *Kimberly.Spriggs@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued pursuant to the Commodity Promotion, Research and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

As part of this rulemaking process, a proposed rule was published in the **Federal Register** on January 2, 2013 (78 FR 188). That rule provided for a 60-day comment period which ended on March 4, 2013. Seventy-five comments were received. The comments were addressed in a second proposed rule and referendum order that was published in the **Federal Register** on September 16, 2013 (78 FR 57006). A final rule prescribing referendum procedures was published in the **Federal Register** on September 16, 2013 (78 FR 56817).

Background

This rule establishes an industry-funded research, promotion and information program for paper and paper-based packaging. The program will cover four types of paper and paper-based packaging—printing, writing and related paper (used to make products for printing, writing and other communication purposes), kraft packaging paper (used for products like grocery bags and sacks), containerboard (used to make corrugated boxes, shipping containers and related products), and paperboard (used for food and beverage packaging, tubes and other miscellaneous products). The program will be financed by an assessment on U.S. manufacturers and importers of paper and paper-based packaging and administered by a board of industry members appointed by the Secretary. The assessment rate will initially be $0.35 per short ton. (One short ton equals 2,000 pounds). Entities that domestically manufacture or import less than 100,000 short tons per marketing year will be exempt from the payment of assessments. The purpose of the program is to maintain and expand markets for paper and paper-based packaging.

A proposal for a promotion program was submitted to USDA by the Paper and Paper-Based Packaging Panel (Panel). The Panel is a group of 14 industry members that was formed in May 2010 to oversee development of the program. The American Forest & Paper Association (AF&PA), a national trade association, provided technical assistance to the Panel.

Authority in 1996 Act

The Order is authorized under the 1996 Act which authorizes USDA to establish agricultural commodity research and promotion orders which may include a combination of promotion, research, industry information and consumer information activities funded by mandatory assessments. Commodity promotion programs provide a unique opportunity for an industry to inform consumers about their particular commodity and have the ability to provide significant conservation benefits to producers and the public. These programs are designed to strengthen the position of agricultural commodity industries in the marketplace, maintain and expand markets and uses for agricultural commodities, develop new uses for agricultural commodities or assist producers in meeting their conservation objectives. As defined under section 513(1)(D) of the 1996 Act, agricultural commodities include the products of forestry, which includes paper and paper-based packaging.

The 1996 Act provides for a number of optional provisions that allow the tailoring of orders for different commodities. Section 516 of the 1996 Act provides permissive terms for orders, and other sections provide for alternatives. For example, section 514 of the 1996 Act provides for orders applicable to (1) producers, (2) first handlers and others in the marketing chain as appropriate, and (3) importers (if imports are subject to assessments). Section 516 states that an order may include an exemption of *de minimis* quantities of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports.

In addition, section 518 of the 1996 Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within three years after assessments first begin under the order. An order also may provide for its approval in a referendum based upon different voting patterns. Section 515 provides for establishment of a board or council from among producers, first handlers and others in the marketing chain as appropriate, and importers, if imports are subject to assessment.

Industry Background

Paper and paper-based packaging is produced from pulp. Pulp is made by chemically or mechanically separating fibers from wood or by recycling recovered paper and paper-based packaging products. The separated, moist fibers are then pressed together and dried into flexible sheets.

U.S. Pulpwood Production [1]

Wood used to make pulp is known as pulpwood. Total pulpwood production

[1] Johnson, Tony G., Ronald J., Walters, Brian F., Sorenson, Colin, Woodall, Christopher W., Morgan, Todd A., National Pulpwood Production, 2008,

includes roundwood chipped at mills and other primary industry mill residues. Roundwood includes both softwood and hardwood. Roundwood pulpwood continues to be the primary fiber source used in pulp manufacturing in the United States. Wood residues consist primarily of mill residue chips, a byproduct of sawmilling and veneer mill operations.

According to U.S. Forest Service statistics, in 2008, U.S. pulpwood production totaled 89.2 million cords. Of that total, softwood roundwood and residues accounted for 69 percent (61.4 million cords). Hardwood roundwood and residues accounted for 31 percent (27.7 million cords). By region, the South accounted for 76.4 percent of total U.S. pulpwood production (68.1 million cords). The West accounted for 9.9 percent (8.8 million cords), the Midwest accounted for 7.1 percent (6.3 million cords), and the Northeast accounted for 6.6 percent (5.9 million cords) of total U.S. pulpwood production.

Manufacturers and Converting Operations

The U.S. paper industry encompasses two broad segments—primary producers/manufacturers (mills) and converters. Primary manufacturers make rolls of paper and paper-based packaging (commonly referred to as roll stock) from pulp produced in the same mill or pulp supplied by another mill. Primary manufacturers are covered under the program.

Converters turn roll stock into final products such as boxes, corrugated boxes, shipping containers, envelopes, magazines, catalogs, copy paper and bags/sacks. Converting operations can take place in a primary producer mill or off-site. When converting is done in a primary producer mill, the roll produced before it is converted into a final product or sold to an off-site converter is covered under the program. Converting operations (and thus converted products) are not covered under the program. An exception is the case of cut-size printing and writing papers (including folio sheets) made by primary producers that are cut prior to leaving the mill.[2] These are classified as primary products (not converted products) under the Harmonized Tariff Schedule of the United States (HTSUS) and will, therefore, be assessed under the program.

Types of Paper and Paper-Based Packaging

There are six major types of paper and paper-based packaging produced by manufacturers: (1) Printing, writing and related paper; (2) kraft packaging paper; (3) containerboard; (4) paperboard; (5) tissue paper; and (6) newsprint. The Order covers the first four of the six types mentioned above.

Printing, writing and related paper is coated or uncoated paper, including thermal but excluding carbonless paper, which is subsequently converted into products used for printing, writing and other communication purposes, such as file folders, envelopes, catalogues, magazines and brochures. Demand for carbonless paper has declined significantly due to other technologies. Thus, the Panel concluded and the Department concurs that the carbonless segment of the industry will not be able to absorb the cost of a promotion program at this time.

Kraft packaging paper is coarse, unbleached, semi-bleached or fully bleached grades of paper that are subsequently converted into products such as grocery bags, multiwall sacks, waxed paper and other products. ''Kraft'' refers to a process for transforming wood into a high quality, strong pulp for making paper and paper-based packaging. Bleaching is the chemical processing of pulp to remove the natural brown color and thus make the pulp and pulp products whiter.

Containerboard includes all forms of linerboard, which is used as the facing material in the production of corrugated or solid fiber shipping boxes, and medium, which is used as the inner fluting material in the manufacture of such boxes. Containerboard is used to manufacture corrugated boxes, shipping containers, point-of-sale displays, pallets and other products.

Paperboard is solid bleached kraft board, recycled board and unbleached kraft board, which is converted into products such as folding boxes, tubes, cans and drums. Paperboard is also used to package food, beverages and other nondurable consumer products such as pharmaceuticals, clothing, footwear and cosmetics. Nondurable goods are used immediately or have a lifespan of 3 years or less.

The two types of paper and paper-based packaging that are not covered under the program are tissue paper and newsprint. With the exception of restroom hand-dryers versus paper towels, tissue paper products are not facing competition from alternative products. The opposite is true for newsprint. Demand for newsprint has drastically declined due to the shift toward digital communications. However, the Panel concluded and the USDA concurs that the newsprint segment of the industry are not able to incur the cost of a promotion program at this time.

U.S. Manufacturing by Region[3]

In 2011, about 68.5 million short tons of U.S. paper and paper-based packaging to be covered under the program were produced. Of the 68.5 million short tons, it is estimated that 63.2 percent was manufactured in the South, 17.1 percent was manufactured in the Midwest, 10.5 percent was manufactured in the Northeast, and 9.2 percent was manufactured in the West. In terms of type, it is estimated that 50.1 percent was containerboard, 29.1 percent was printing, writing and related paper, 18.3 percent was paperboard, and 2.5 percent was kraft packaging paper.

Export Markets

According to U.S. Census data, in 2011, exports of the four types of paper and paper-based packaging to be covered under the Order totaled about 11.5 million short tons, or 17 percent of domestic production. In terms of major export markets in 2011, it is estimated that 18.0 percent went to Western Europe, 16.0 percent each went to Canada and Mexico, 11.0 percent went to the Far East and Oceania, 9.0 percent went to South America and 8.0 percent went to China. Of the 11.5 million short tons, it is estimated that 46.0 percent was containerboard, 26.0 percent was paperboard, 22.0 percent was printing, writing and related paper, and 6.0 percent was kraft packaging paper.

Imports

According to U.S. Customs and Border Protection (Customs) data, in 2011, imports to be covered under the program totaled 7.5 million short tons. Of that total, about 58.6 percent was from Canada, 22.2 percent from Western Europe, 9.8 percent was from China, Japan and the Far East, 2.7 percent was from South America and the remainder was from other countries. In terms of type, about 72.0 percent of the imports were printing, writing and related paper, 13.1 percent was paperboard, 10.1 percent was containerboard and 4.8 percent was kraft packaging paper.

USDA, p. 15 (*www.treesearch.fs.fed.us/pubs/37960*).

[2] Cut-size office papers are used in office machines and are sold in sheet form typically 8.5″ x 11″, 8.5″ x 14″ or 11″ x 11″. Folio sheets are cut-size papers sold in sheet form in sizes of 17″ x 22″ or larger. These would be included in the printing, writing and related paper category.

[3] Manufacturing data was compiled by the AF&PA from its 51st Annual Survey of Paper, Paperboard and Pulp, 2011.

Need for a Program

According to AF&PA data, markets for paper and paper-based packaging that will be covered under the program declined by 15 percent between 2000 and 2010. U.S. shipments of cut-size office papers (one sector of the printing and writing category) grew with employment in white collar-intensive industries between 2000 and 2006. However, between 2006 and 2010, shipments fell 20 percent [4] while employment in white collar-intensive industries declined by 5 percent. Moreover, in 2010, while employment in white collar-intensive industries stabilized,[5] office paper shipments declined another 5 percent.[6] This is illustrated in the following chart.

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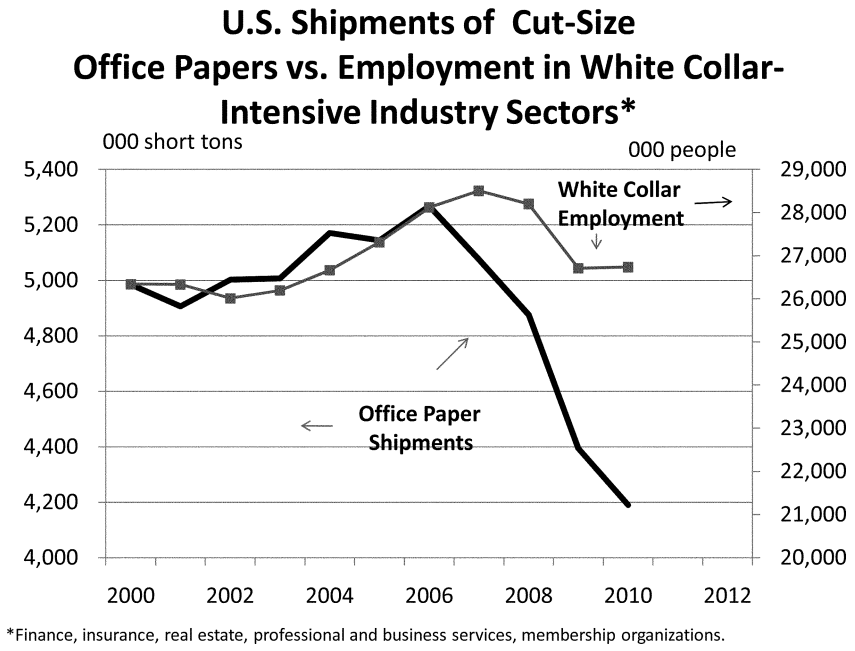


Markets for other printing and writing papers (exclusive of cut-size office papers) declined 27 percent between 2006 and 2010.[7] Digital forms of communication such as Internet advertising and the widespread availability of news, books and other digital information have contributed to this displacement. This is illustrated in the following chart.[8]

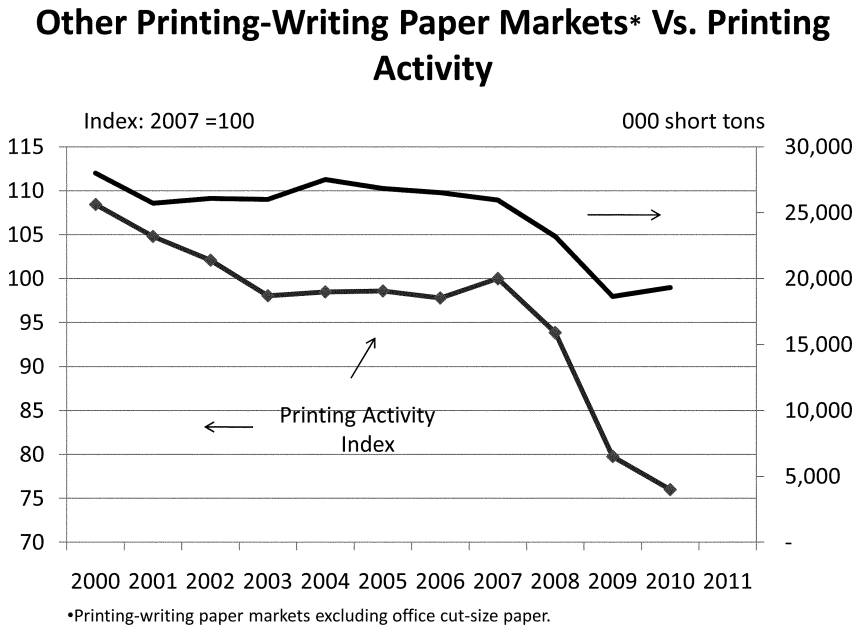
[4] AF&PA's Statistics of Pulp, Paper and Paperboard, p. 7.

[5] Employment data was compiled by the AF&PA from the U.S. Bureau of Labor Statistics, *http://www.bls.gov/data.*

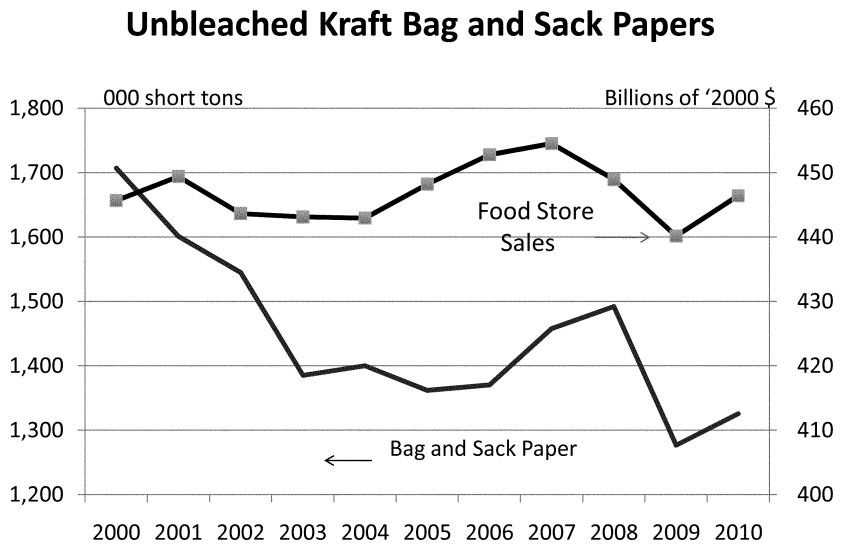
[6] AF&PA's Statistics, p. 7.

[7] AF&PA's Statistics, p. 7 and 12.

[8] Printing activity index is from *http://www.federalreserve.gov/releases/g17/ipdisk/ip_nsa.txt.* The Federal Reserve Board reports production of nondurable goods, as well as other items, as indexes rather than in terms of tons, pounds or units. The base year is 2007, which means that if the index reaches 105 in 2008, production has increased 5 percent relative to the 2007 level. If the index falls to 95, it means that production has declined 5 percent relative to the 2007 level.



According to AF&PA data, kraft paper markets declined 23 percent between 2000 and 2010,[9] even as food store sales rose by 1 percent.[10] This is illustrated in the following chart.



Paperboard markets also have declined over the past decade.[11] Paperboard is mainly facing competition from plastics, but also from foils and, to a lesser extent, glass. Between 2000 and 2010, U.S. paperboard markets contracted 10 percent as compared with a fairly stable demand (i.e., a 1 percent increase) for nondurable consumer goods. Additionally, paperboard markets stagnated when nondurable consumer goods demand grew in the mid-2000s.[12] This is illustrated in the chart below.

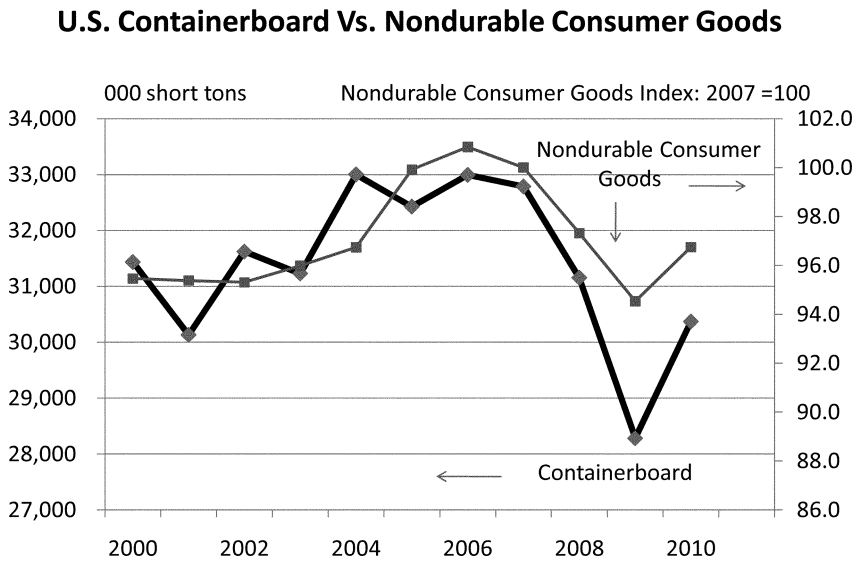
[9] AF&PA monthly Kraft Paper Statistical Reports.

[10] Retail food and beverage store sales data is from the U.S. Census Bureau (*http://www.census.gov/retail*) and was adjusted for inflation by the AF&PA using U.S. Bureau of Labor Statistics' consumer price index for food and beverages (*http:/www.bls.gov/data/#prices*).

[11] AF&PA's Statistics, p. 9.

[12] *http://www.federalreserve.gov/releases/g17/ipdisk/ip_nsa.txt.*

AF&PA data show that containerboard markets have remained fairly steady as compared to the other four types of paper and paper-based packaging to be covered under the program. U.S. containerboard markets declined 2 percent between 2000 and 2010,[13] while demand for nondurable consumer goods, which accounts for most of the demand for corrugated boxes, rose 1 percent. As shown below, from 2000 through 2007, containerboard markets largely kept pace with nondurable consumer goods, with containerboard demand growing 4 percent and nondurable goods up 5 percent.[14] This is illustrated in the following chart.



In light of these market conditions, the Panel was formed in May 2010 to assess the merits of a national promotion program. While there have been a number of ongoing campaigns designed to promote specific sectors of the paper industry, the impact of these programs has been limited due to funding. Additionally, while the programs have been useful, their messages have been tailored to specific segments of the industry. Ultimately, the Panel concluded that a national program that will generate about $25 million annually with a unified message that crosses all segments will benefit the entire industry.

Provisions of Program

Sections 1222.1 through 1222.29 of the Order define certain terms that will be used throughout the Order. Several of the terms are common to all research and promotion programs authorized under the 1996 Act while other terms are specific to the paper and paper-based packaging Order.

[13] AF&PA's Statistics, p. 9 and 20.

[14] *http://www.federalreserve.gov/releases/g17/ipdisk/ip_nsa.txt.*

Sections 1222.40 through 1222.47 of the Order detail the establishment and membership of the Paper and Paper-Based Packaging Board, nominations and appointments, the term of office, removal and vacancies, procedure, reimbursement and attendance, powers and duties, and prohibited activities.

Sections 1222.50 through 1222.53 of the Order detail requirements regarding the Board's budget and expenses, financial statements, assessments, and exemption from assessments. The Board's programs and expenses will be funded through assessments on U.S. manufacturers and importers, other income, and other funds available to the Board. The Order provides for an initial assessment rate of $0.35 per short ton of paper and paper-based packaging domestically manufactured or imported. Domestic manufacturers will pay assessments based on the quantity of paper and paper-based packaging manufactured or produced; the assessment is on the rollstock. An exception previously mentioned is the case of cut-size printing and writing papers (including folio sheets) in which case the assessment is on the cut-size paper. Importers will pay assessments based on the quantity of paper and paper-based packaging imported to the United States.

Two years after the Order becomes effective and periodically thereafter, the Board will review the assessment rate and, if appropriate, recommend a change in the rate. At least two-thirds of the Board members must favor a change in the assessment rate. Any change in the assessment rate is subject to rulemaking by the Secretary.

Domestic manufacturers must pay their assessments owed to the Board by the 30th calendar day of the month following the end of the quarter in which the paper and paper-based packaging was manufactured. Importer assessments will be collected through Customs. If Customs does not collect the assessment from an importer, then the importer is responsible for paying the assessment directly to the Board within 30 calendar days after the end of the quarter in which the paper and paper-based packaging was imported.

The Order provides authority for the Board to impose a late payment charge and interest for assessments overdue to the Board by 60 calendar days. The late payment charge and rate of interest must be prescribed in the Order's regulations issued by the Secretary.

The Order provides for two exemptions. First, U.S. manufacturers and importers who domestically produce or import less than 100,000 short tons during a marketing year are exempt from paying assessments. Manufacturers must apply to the Board for an exemption prior to the start of the fiscal year. This is an annual exemption; manufacturers must reapply each year. The Board will then issue, if deemed appropriate, a certificate of exemption to the eligible manufacturer. Once approved, domestic manufacturers will not have to pay assessments to the Board for the applicable fiscal year.

Importers that imported less than 100,000 short tons of paper and paper-based packaging during the prior marketing year will automatically be considered exempt for the fiscal year that assessments are due, and will not be required to apply to the Board for a certificate of exemption. Customs data will be reviewed to determine applicable importers.

Importers that imported more than 100,000 short tons of paper and paper-based packaging during the prior marketing year, but believe and can document that they will import less than 100,000 short tons during the current year may apply to the Board for a certificate of exemption. The Board will then issue, if deemed appropriate, a certificate of exemption to the eligible importer.

Importers who are exempt will have their assessments as collected by Customs refunded by the Board within 60 calendar days after receipt of such assessments by the Board. No interest will be paid on the assessments collected by Customs or the Board.

Manufacturers who did not apply to the Board for an exemption and domestically manufactured less than 100,000 short tons during the fiscal year will receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year. The Board will determine the assessments paid and refund the manufacturer accordingly.

Importers who did not apply to the Board for an exemption, imported more than 100,000 short tons of paper and paper-based packaging during the prior marketing year, and imported less than 100,000 short tons during the fiscal year for which assessments are due, will receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year. The Board will determine the assessments paid and refund the importer accordingly.

On the other hand, manufacturers and importers who receive an exemption certificate or an automatic exemption but domestically manufacture or import 100,000 short tons or more of paper and paper-based packaging during the fiscal year must pay the Board the applicable assessments owed within 30 calendar days after the end of the fiscal year and submit any necessary reports to the Board.

The second exemption under the Order is for organic paper and paper-based packaging.

Sections 1222.60 through 1222.62 of the Order detail requirements regarding promotion, research and information programs, plans and projects authorized under the Order.

Sections 1222.70 through 1222.72 specify the reporting and recordkeeping requirements under the Order as well as requirements regarding confidentiality of information.

Section 1222.81(a) of the Order specifies that the program will not go into effect unless it is approved by a majority of current U.S. manufacturers and importers voting in a referendum who also represent a majority of the volume of paper and paper-based packaging represented in the referendum who, during a representative period determined by the Secretary, were engaged in the manufacturing or importation of paper and paper-based packaging into the United States. As previously mentioned, in a referendum held from October 28 through November 8, 2013, 85 percent of those voting in the referendum representing 95 percent of the volume of paper and paper-based packaging represented in the referendum favored implementation of the program.

Section 1222.81(b) of the Order specifies criteria for subsequent referenda. Under the Order, a referendum may be held to ascertain whether the program should continue, be amended, or be terminated.

Sections 1222.80 and sections 1222.82 through 1222.88 describe the rights of the Secretary; authorize the Secretary to suspend or terminate the Order when deemed appropriate; prescribe proceedings after termination; address personal liability, separability, and amendments; and provide Office of Management and Budget (OMB) control numbers. These provisions are common to all research and promotion programs authorized under the 1996 Act.

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563

emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This 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. The OMB has not reviewed it under that Order.

We expect the economic impact of this rule to be minimal. The program is intended to include broad, fact-based messages highlighting the renewability, recyclability and reusability of paper and paper-based packaging. Paper produced in the United States relies on fiber from sustainably managed forests and fiber recovered for recycling as its raw material. Broad messages about the recyclability of paper should enhance recovery efforts. Increasing paper recovering for recycling will increase the amount of paper diverted from landfills. Messaging to encourage the use of renewable and recyclable paper and paper-based packaging could help increase the use of bio-based products; paper and paper-based packaging are considered bio-based products because they are composed of wood fiber.

The industry can also educate the public about the sustainability of paper and paper-based packaging. In the United States, more trees are grown than harvested. Between 1953 and 2006, the standing inventory of trees (i.e., the volume of growing trees) in U.S. forests increased by 49 percent and has increased by more than 20 percent since 1970.[15]

Additionally, many paper products are manufactured using renewable energy. In 2008, an estimated 65 percent of the energy needed to operate U.S. pulp and paper mills was generated from renewable fuels derived largely from biomass.[16] Broad campaigns to educate consumers about these factors should help all segments of the industry.

The program will also help the forest products industry maintain 870,000 jobs across the nation and begin to create new jobs.[17] In addition to these jobs, numerous other jobs in related sectors are dependent upon the economic health of this industry.

The program will be funded by industry through an assessment. The program will collect approximately $25 million in assessments from the top producing U.S. manufacturers and importers to conduct marketing and educate consumers about a variety of paper products, thus, benefiting all paper manufacturers and importers, including many small operations that will be exempt from the assessment. While the benefits of the program are difficult to quantify, they are expected to outweigh program costs. If the new program preserves just 0.24 percent of the paper and allied products industry sales by slowing demand declines for some grades and/or increasing demand growth for other grades, the economy could experience 3,360 additional jobs.[18] For example, the Cotton Board has seen a Benefit-Cost Ratio for producers and the government of $8.80 return for each dollar invested; and since 1990, the Benefit-Cost Ratio for importers is a $14.80 return for each dollar invested. Other research and promotion programs have seen similar benefits.

The assessments collected from U.S. manufacturers and importers are expected to be relatively small compared to U.S. manufacturer revenue and the value of paper and paper-based packaging imports. Many businesses make the decision to not pass these costs to consumers and instead keep it as a cost to do business because the costs are so small compared to the total revenue. To calculate the percentage of revenue represented by the assessment rate, the $0.35 per short ton assessment rate is divided by the average price, and that number is multiplied by 100. For domestic manufacturers, using a 2011 average price of $760 per short ton,[19] the percentage of revenue represented by the assessment rate would be .046 percent. For importers, using an average price of $824 per short ton ($6.2 billion in 2011 imports divided by 7.5 million short tons of imports × 100)[20], the percentage revenue represented by the assessment rate would be .042 percent. Thus, for both domestic manufacturers and importers covered under the program, the percentage revenue represented by the assessment rate should be well under 1 percent (just under 5/100ths of a percent) of the average value per ton produced or imported.

Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) is required to examine the impact of this rule on small entities. Accordingly, AMS prepared this regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (manufacturers and importers) as those having annual receipts of no more than $7.0 million.

According to the AF&PA, in 2011, there were 84 manufacturers in the United States that produced one or more of the four types of paper and paper-based packaging to be covered under the Order. Using an average price of $760 per short ton, a manufacturer who produced less than 9,210 short tons of paper and paper-based packaging per year would be considered a small entity. It is estimated that no more than four manufacturers produced less than 9,210 short tons in 2011. Thus, the majority of manufacturers would not be considered small businesses.

According to Customs data, it is estimated that, in 2011, there were about 2,612 importers of paper and paper-based packaging. Eighty-five importers, or about 3.2 percent, imported more than $7.0 million worth of paper and paper-based packaging. Thus, the majority of importers would be considered small entities. However, no importer who imported 100,000

[15] National Report of Sustainable Forests (2010), Page II–112, U.S. Forest Service *www.fs.fed.us/research/sustain/*).

[16] This is based on a 2008 survey of AF&PA member companies that produced pulp, paper and paperboard.

[17] Forest products industry employment was calculated by summing March 2012 Bureau of Labor Statistics employment data for the following categories: Paper and paper products, logging, wood products, wood kitchen cabinets and countertops.

[18] This is an AF&PA estimate and was computed as follow. The paper and paper products industry currently employs 395,000 people, according to the Bureau of Labor Statistics. The grades of paper and paper-based packaging to be covered by the program accounted for about 83.3 percent of total paper and paper-based packaging in 2011. Hence, an estimated 329,000 direct jobs (83.3 percent of 395,000) are associated with grades that will be covered by the program. Multipliers compiled by the Economic Policy Institute indicate that 100 jobs in the paper industry support an additional 325 jobs outside the industry (supplier industries, government entities and schools, and local communities where paper industry employees spend their wages). Thus, 329,000 paper industry jobs support 1.4 million jobs throughout the economy ((329,000 jobs) + (329,000 jobs × 3.25)). If the program preserves just 0.24 percent of the paper and allied products industry sales by slowing demand declines for some grades and/or increasing demand growth for other grades, the economy will have 3,360 additional jobs (0.24 percent × 1.4 million).

[19] Industry sources do not publish information on average price for paper and paper-based packaging. A reasonable estimate for average price of paper and paper-based packaging is the value per ton of paper and paper-based packaging exports. According to U.S. Census data, the average value of paper and paper-based packaging exports in 2011 was approximately $760 per short ton.

[20] U.S. Customs and Border Protection data.

short tons or more (the Order's exemption threshold) imported less than $7.0 million worth of paper and paper-based packaging (19 importers). Therefore, none of the 19 importers to be covered under the Order would be considered small businesses.

Regarding value of the commodity, with domestic production at about 68.5 million short tons in 2011, and using an average price of $760 per short ton, the value of domestic paper and paper-based packaging in 2011 was about $52 billion. According to Customs data, the value of imported paper and paper-based packaging imports for 2011 was about $6.2 billion.

This rule establishes an industry-funded research, promotion, and information program for paper and paper-based packaging. The program will be financed by an assessment on domestic manufacturers and importers and administered by a board of industry members appointed by the Secretary. The initial assessment rate is $0.35 per short ton. Entities that domestically manufacture or import less than 100,000 short tons per marketing year are exempt from the payment of assessments. In addition domestic manufacturers and importers who qualify as 100 percent organic under the NOP may submit an ''Organic Exemption Form'' to the Board and request an exemption from assessments. The purpose of the program is to maintain and expand markets for paper and paper-based packaging. A referendum was held among eligible manufacturers and importers from October 28 through November 8, 2013, to determine whether they favor implementation of the program prior to it going into effect. Eighty-five percent of those voting in the referendum, representing 95 percent of the volume of paper and paper-based packaging represented in the referendum, favored implementation of the program. The program is authorized under the 1996 Act.

The Order provides for two exemptions. First, domestic manufacturers and importers who qualify as 100 percent organic under the NOP may submit an ''Organic Exemption Form'' to the Board and request an exemption from assessments. Second, U.S. manufacturers and importers who domestically produce or import less than 100,000 short tons during a marketing year are exempt from paying assessments. Of the 84 domestic manufacturers in 2011, it is estimated that about 33 to 39 percent, produced less than 100,000 short tons per year and will thus be exempt from paying assessments under the Order. Of the 2,612 importers in 2011, it is estimated that about 2,593, or 99 percent, imported less than 100,000 short tons per year and will also be exempt from paying assessments. Thus, about 51 domestic manufacturers and 19 importers will pay assessments under the Order. Using 2011 data and deducting exempt tonnage, it is estimated that if 72.5 million short tons of paper and paper-based packaging (67.2 million short tons domestic and 5.3 million short tons imported) were assessed at a rate of $0.35 per short ton, about $25.4 million will be collected in assessments. Of that $25.4 million, 92.5 percent ($23.5 million) will be paid by domestic manufacturers and 7.5 percent ($1.9 million) will be paid by importers.

Regarding alternatives, the Panel considered various options to the program's coverage, the assessment rate and exemption threshold. The Panel considered the merits of assessing all U.S. production of the four types of paper and paper-based packaging to be covered under the program, whether imports should be included, and different assessment rates to generate a range in income from $10 million to $30 million. The Panel also considered the merits of a 25,000 short ton versus a 100,000 short ton exemption. The table below details various rates of assessment and approximate income generated using 2011 data and the 100,000 short ton-exemption threshold.

APPROXIMATE ASSESSMENT INCOME AT VARIOUS ASSESSMENT RATES

Approximate assessment income (million)	U.S. production and imports with a 100,000 short ton-exemption (72.5 million short tons)
$10.0	$0.138
20.0	0.276
25.4	0.350
30.0	0.413

After much consideration, the Panel concluded and the Department concurs that an exemption threshold of 100,000 short tons is appropriate with imports covered under the program as well. The Panel concluded and the Department concurs that this exemption level will help reduce the financial and reporting burden on smaller entities but provide the Board sufficient income to administer the program and conduct research and promotion activities.

This action imposes additional reporting and recordkeeping burdens on manufacturers and importers of paper and paper-based packaging. Manufacturers and importers interested in serving on the Board will be asked to submit a nomination form to the Board indicating their desire to serve or nominating another industry member to serve on the Board. Interested persons may also submit a background statement outlining their qualifications to serve on the Board. Except for the initial Board nominations, manufacturers and importers will have the opportunity to cast a ballot and vote for candidates to serve on the Board. Manufacturer and importer nominees to the Board must submit a background form to the Secretary to ensure they are qualified to serve on the Board.

Additionally, manufacturers and importers who manufacture or import less than 100,000 short tons annually can submit a request to the Board for an exemption from paying assessments on this volume. Manufacturers and importers will also be asked to submit a report to the Board regarding their production/imports. Manufacturers and importers who qualify as 100 percent organic under the NOP may submit a request to the Board for an exemption from assessments. Importers may also request a refund of any assessments paid to Customs. These forms were submitted to the OMB for approval under OMB Control No. 0581–0281. Specific burdens for these forms are detailed later in this document in the section titled ''Paperwork Reduction Act''.

Finally, manufacturers and importers who participated in the referendum to vote on whether the Order should become effective completed a ballot for submission to the Secretary. The ballot was submitted to the OMB and

approved under OMB Control No. 0581–0282.

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

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

Regarding outreach efforts, the Panel represents a broad cross-section of manufacturers and importers that will be covered under the program. Of the 14 Panel members, 11 are AF&PA members and 3 are non-AF&PA members. According to the Panel, Panel and AF&PA members represent about 81 percent of the domestic industry that will be covered by the program. Panel members representing 69 percent of the domestic production signed forms indicating their support for the program. Over the past year, the Panel, and AF&PA staff and industry company employees, on behalf of the Panel, have made presentations on the Order to all three major associations representing paper-based packaging and many of the associations representing the printing and writing paper segment of the industry. In September 2011, the Panel mailed information regarding the program to all Panel-known companies that would pay assessments under the program. This included manufacturers and importers and both AF&PA members and non-members. The Panel also mailed a letter to other parties in the supply chain to continue to educate them about the program. The AF&PA continues to communicate to its members and non-members about the program.

Finally, the numbers used in the RFA analysis herein represent the total universe of domestic manufacturers and importers known to USDA and not those who were eligible to vote in the referendum.

Civil Rights Impact Analysis

Consideration has been given to the potential civil rights implications of this rule on affected parties to ensure that no person or group shall be discriminated against on the basis of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status or protected genetic information. Although detailed information is not available on the domestic manufacturers and importers subject to the program or the users of paper and paper-based packaging, broad consideration was given to the employees of such entities and those individuals who wish to use information collected under this mandatory program. This rule does not require affected entities to relocate or alter their operations in ways that could adversely affect such persons or groups. Moreover, the program will not exclude from participation any persons or groups, deny any persons or groups the benefits of the program, or subject any persons or groups to discrimination.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Executive Order 12988

This action has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act, a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS requested approval of a new information collection and recordkeeping requirements for the paper and paper-based packaging program.

Title: Advisory Committee or Research and Promotion Background Information.

OMB Number for background form AD–755: (Approved under OMB No. 0505–0001).

Expiration Date of Approval: May 31, 2015.

Title: Paper and Paper-Based Packaging Promotion, Research and Information Order.

OMB Number: 0581–0281.

Expiration Date of Approval: 3 years from approval date.

Type of Request: New information collection for research and promotion programs.

Abstract: The information collection requirements in the request are essential to carry out the intent of the 1996 Act. The information collection concerns a new national research and promotion program for the paper and paper-based packaging industry. The program will be financed by an assessment on domestic manufacturers and importers and administered by a board of industry members appointed by the Secretary. The program provides for an exemption for manufacturers and importers who manufacture or import less than 100,000 short tons of paper and paper-based packaging during the year. A referendum was held October 28 through November 8, 2013, among eligible manufacturers and importers to determine whether they favor implementation of the program prior to it going into effect. Eighty-five percent of those voting in the referendum, representing 95 percent of the volume represented in the referendum, favored implementation of the program. The purpose of the program is to maintain and expand markets for paper and paper-based packaging.

In summary, the information collection requirements under the program concern Board nominations, the collection of assessments, and referenda. For Board nominations, manufacturers and importers interested in serving on the Board must submit a ''Nomination Form'' to the Board indicating their desire to serve or to nominate another industry member to serve on the Board. Interested persons may also submit a background statement outlining qualifications to serve on the Board. Except for the initial Board nominations, manufacturers and importers will have the opportunity to submit a ''Nomination Ballot'' to the Board where they will vote for

candidates to serve on the Board. Nominees must also submit a background information form, ''AD–755,'' to the Secretary to ensure they are qualified to serve on the Board.

Regarding assessments, manufacturers and importers who manufacture or import less than 100,000 short tons annually may submit a request, ''Application for Exemption from Assessments,'' to the Board for an exemption from paying assessments. Manufacturers and importers must submit a ''Production/Import Report'' to the Board on a quarterly basis that specifies the quantity of paper and paper-based packaging manufactured or imported during the applicable period and the country of export (for imports). Manufacturers who manufacture less than 100,000 short tons annually are exempt from paying assessments and do not have to submit this report. Additionally, only importers who pay their assessments directly to the Board must submit this report. If the importer assessments are collected by Customs, Customs will remit the funds to the Board and the other information will be available from Customs (i.e., country of export, quantity imported). Finally, domestic manufacturers and importers who qualify as 100 percent organic under the NOP may submit an ''Organic Exemption Form'' to the Board and request an exemption from assessments.

There will also be an additional burden on manufacturers and importers voting in referenda. The referendum ballot, which represents the information collection requirement relating to referenda, was addressed in a final rule on referendum procedures that was published in the **Federal Register** on September 16, 2013 (78 FR 56817).

Information collection requirements that are included in this rule include:

(1) Nomination Form

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Manufacturers and importers.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 5 hours.

(2) Background Statement

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Manufacturers and importers.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 5 hours.

(3) Nomination Ballot

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Domestic manufacturers and importers.

Estimated Number of Respondents: 75 (56 manufacturers and 19 importers who manufacture/import 100,000 short tons or more annually).

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 18.75 hours.

(4) Background Information Form AD–755 (OMB Form No. 0505–0001)

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.5 hour per response for each Board nominee.

Respondents: Manufacturers and importers.

Estimated Number of Respondents: 12 (24 for initial nominations to the Board, 0 for the second year, and up to 8 annually thereafter).

Estimated Number of Responses per Respondent: 1 every 3 years. (0.3)

Estimated Total Annual Burden on Respondents: 12 hours for the initial nominations to the Board, 0 hours for the second year of operation, and up to 4 hours annually thereafter.

(5) Application for Exemption From Assessments

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hour per manufacturer or importer reporting on paper and paper-based packaging manufactured or imported. Upon approval of an application, manufacturers and importers will receive exemption certification.

Respondents: Domestic manufacturers (33) and importers (2,593) who manufacture or import less than 100,000 short tons of paper and paper-based packaging annually.

Estimated number of Respondents: 2,626.

Estimated number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 656.50 hours.

(6) Production/Import Report

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hour per manufacturer or importer.

Respondents: Manufacturers who manufacture 100,000 short tons or more annually (51) and importers who remit their assessments directly to the Board (computation is based on the scenario where all 19 importers pay their assessments to the Board).

Estimated number of Respondents: 70.

Estimated number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 140 hours.

(7) Refund of Assessments

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hour.

Respondents: Manufacturers and importers.

Estimated Number of Respondents: 10.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2.5 hours.

(8) Organic Exemption Form

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.5 hours per exemption form.

Respondents: Organic manufacturers and importers.

Estimated Number of Respondents: 1.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 0.5 hour.

(9) A Requirement To Maintain Records Sufficient To Verify Reports Submitted Under The Order

Estimate of Burden: Public recordkeeping burden for keeping this information is estimated to average 0.5 hours per record keeper maintaining such records.

Recordkeepers: Manufacturers (84) and importers (2,612).

Estimated number of recordkeepers: 2,696.

Estimated total recordkeeping hours: 1,348 hours.

As noted above, under the program, manufacturers and importers must pay assessments and file reports with and submit assessments to the Board (importers through Customs). While the Order imposes certain recordkeeping requirements on manufacturers and importers, information required under the Order can be compiled from records currently maintained. Such records must be retained for at least two years beyond the fiscal year of their applicability.

An estimated 2,696 respondents will provide information to the Board (84 domestic manufacturers and 2,612 importers). The estimated cost of providing the information to the Board by respondents would be $72,204. This total has been estimated by multiplying 2,188 total hours required for reporting and recordkeeping by $33, the average mean hourly earnings of various occupations involved in keeping this information. Data for computation of this hourly rate was obtained from the U.S. Department of Labor, Bureau of Labor Statistics.

The Order's provisions have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements.

The forms require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the 1996 Act. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for individuals filling out reports and remitting assessments to the Board. The forms are simple, easy to understand, and place as small a burden as possible on the person required to file the information.

Collecting information quarterly coincides with normal industry business practices. The timing and frequency of collecting information are intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required reports. The requirement to keep records for two years is consistent with normal industry practices. In addition, the information to be included on these forms is not available from other sources because such information relates specifically to individual manufacturers and importers who are subject to the provisions of the 1996 Act. Therefore, there is no practical method for collecting the required information without the use of these forms.

In the January 2, 2013, proposed rule, comments were also invited on the information collection requirements prescribed in the Paperwork Reduction Act section of this rule. Specifically, comments were solicited on: (a) Whether the collection of information is necessary for the proper performance of functions of the Order and USDA's oversight of the Order, including whether the information will have practical utility; (b) the accuracy of USDA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) the accuracy of USDA's estimate of the principal manufacturing areas in the United States for paper and paper-based packaging; (d) the accuracy of USDA's estimate of the number of manufacturers and importers of paper and paper-based packaging that would be covered under the program; (e) ways to enhance the quality, utility, and clarity of the information to be collected; and (f) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. No comments were received regarding information collection.

As previously mentioned, the Department conducted a referendum among eligible manufacturers and importers of paper and paper-based packaging from October 28 through November 8, 2013. Manufacturers and importers currently engaged in the business who manufactured/imported 100,000 tons of paper and paper-based packaging during the representative period were eligible to vote. Eighty-five percent of those voting in the referendum representing 95 percent of the volume of paper and paper-based packaging represented in the referendum favored implementation of the program.

After consideration of all relevant material presented, including the initial proposal, comments received, and the referendum results, it is found that the Paper and Paper-Based Packaging Promotion, Research and Information Order is consistent with and will effectuate the purposes of the 1996 Act

Pursuant to 5 U.S.C. 553 it is found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because implementation of the program is needed as soon as possible so that the first Board can be established and the collection of assessments can begin. Further, implementation of the program was approved in a referendum of domestic manufacturers and importers.

List of Subjects in 7 CFR Part 1222

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Paper and paper-based-packaging promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Title 7, Chapter XI of the Code of Federal Regulations is amended as follows:

Part 1222—Paper and Paper-Based Packaging Promotion, Research and Information Order

■ 1. The authority citation for part 1222 continues to read as follows:

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

■ 2. Subpart A is added to part 1222 to read as follows:

Subpart A—Paper and Paper-Based Packaging Promotion, Research and Information Order

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1222.2 Board.
1222.3 Conflict of interest.
1222.4 Converted products.
1222.5 Customs or CBP.
1222.6 Department or USDA.
1222.7 Fiscal period and marketing year.
1222.8 Importer.
1222.9 Information.
1222.10 Kraft process.
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1222.12 Manufacture or produce.
1222.13 Manufacturer or producer.
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1222.15 Order.
1222.16 Panel.
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1222.19 Person.
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1222.23 Research.
1222.24 Secretary.
1222.25 Short ton or ton.
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Subpart A—Paper and Paper-Based Packaging Promotion, Research and Information Order

Definitions

§ 1222.1 Act.

Act means the Commodity Promotion, Research and Information Act of 1996 (7 U.S.C. 7411–7425), and any amendments thereto.

§ 1222.2 Board.

Board means the Paper and Paper-Based Packaging Board established pursuant to § 1222.40, or such other name as recommended by the Board and approved by the Department.

§ 1222.3 Conflict of interest.

Conflict of interest means a situation in which a member or employee of the Board has a direct or indirect financial interest in a person who performs a service for, or enters into a contract with, the Board for anything of economic value.

§ 1222.4 Converted products.

Converted products means products made from paper and paper-based packaging.

§ 1222.5 Customs or CBP.

Customs or CBP means the U.S. Customs and Border Protection, an agency of the U.S. Department of Homeland Security.

§ 1222.6 Department or USDA.

Department or USDA means the U.S. Department of Agriculture, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1222.7 Fiscal period and marketing year.

Fiscal period and marketing year means the 12-month period ending on December 31 or such other period as recommended by the Board and approved by the Secretary.

§ 1222.8 Importer.

Importer means any person who imports paper and paper-based packaging from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person who manufactures paper and paper-based packaging outside the United States for sale in the United States, and who is listed in the import records as the importer of record for such paper and paper-based packaging.

§ 1222.9 Information.

Information means information and programs for consumers, customers and industry, including educational activities, information and programs designed to enhance and broaden the understanding of the use and attributes of paper and paper-based packaging, increase efficiency in manufacturing paper and paper-based packaging, maintain and expand existing markets, and develop new markets and marketing strategies. These include:

(a) Consumer education and information, which means any action taken to provide information to, and broaden the understanding of, the general public regarding paper and paper-based packaging; and

(b) Industry information, which means information and programs that would enhance the image of the paper and paper-based packaging industry.

§ 1222.10 Kraft process.

Kraft process means a process that transforms wood into a high quality strong pulp for making paper and paper-based packaging.

§ 1222.11 Linerboard.

Linerboard means a grade of containerboard that is used as facing material in the manufacture of corrugated or solid fiber shipping boxes.

§ 1222.12 Manufacture or produce.

Manufacture or produce means the process of transforming pulp into paper and paper-based packaging.

§ 1222.13 Manufacturer or producer.

Manufacturer or producer means any person who manufactures paper and paper-based packaging in the United States.

§ 1222.14 Medium.

Medium means a grade of containerboard used as the inner fluting material in the manufacture of corrugated or solid fiber shipping boxes.

§ 1222.15 Order.

Order means an order issued by the Secretary under section 514 of the Act that provides for a program of generic promotion, research, and information regarding agricultural commodities authorized under the Act.

§ 1222.16 Panel.

Panel means the Paper and Paper-Based Packaging Panel formed to pursue development of a paper and paper-based packaging promotion, research and information program.

§ 1222.17 Paper and paper-based packaging.

(a) *Paper and paper-based packaging* means:

(1) Printing, writing and related paper, which is coated or uncoated paper that is subsequently converted into products used for printing, writing and other communication purposes, such as file folders, envelopes, catalogues, magazines and brochures. For purposes of this Order, printing, writing and related paper includes thermal paper but does not include carbonless paper;

(2) Kraft packaging paper, which is coarse unbleached, semi-bleached or fully bleached grades of paper that are subsequently converted into products such as grocery bags, multiwall sacks, waxed paper and other products;

(3) Containerboard, which is all forms of linerboard and medium that is used to manufacture corrugated boxes, shipping containers and related products; and

(4) Paperboard, which is solid bleached kraft board, recycled board and unbleached kraft board that is subsequently converted into a wide variety of end uses, including folding boxes, food and beverage packaging, tubes, cans, and drums, and other miscellaneous products. Paperboard does not include construction-related products such as gypsum wallboard facings and panel board.

(b) For purposes of this Order, paper and paper-based packaging does not include tissue paper, newsprint or converted products.

§ 1222.18 Part and subpart.

Part means the Paper and Paper-Based Packaging Promotion, Research and Information Order and all rules, regulations, and supplemental orders issued pursuant to the Act and the Order. The Order shall be a *subpart* of such part.

§ 1222.19 Person.

Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1222.20 Programs, plans and projects.

Programs, plans and projects means those research, promotion and information programs, plans or projects established pursuant to the Order.

§ 1222.21 Promotion.

Promotion means any action, including paid advertising and the

dissemination of information, utilizing public relations or other means, to enhance and broaden the understanding of the use and attributes of paper and paper-based packaging for the purpose of maintaining and expanding markets for paper and paper-based packaging.

§ 1222.22 Pulp.

Pulp means the material that is produced by chemically or mechanically separating cellulose fibers from wood or recycling recovered fiber.

§ 1222.23 Research.

Research means any type of test, study, or analysis designed to enhance the image, desirability, use, marketability, manufacturing, recyclability, reusability or quality of paper and paper-based packaging, including research directed to product characteristics and product development, including new uses of existing products, new products or improved technology in the manufacturing of paper and paper-based packaging.

§ 1222.24 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any other officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1222.25 Short ton or ton.

Short ton or ton means a measure of weight equal to 2,000 pounds.

§ 1222.26 State.

State means any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

§ 1222.27 Suspend.

Suspend means to issue a rule under 5 U.S.C. 553 to temporarily prevent the operation of an order or part thereof during a particular period of time specified in the rule.

§ 1222.28 Terminate.

Terminate means to issue a rule under 5 U.S.C. 553 to cancel permanently the operation of an order or part thereof beginning on a date certain specified in the rule.

§ 1222.29 United States.

United States means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

Paper and Paper-Based Packaging Board

§ 1222.40 Establishment and membership.

(a) *Establishment of the Board.* There is hereby established a Paper and Paper-Based Packaging Board to administer the terms and provisions of this Order. The Board shall be composed of manufacturers and importers of paper and paper-based packaging that manufacture or import 100,000 short tons or more of paper and paper-based packaging during a marketing year. Seats on the Board shall be apportioned as set forth in paragraph (b) of this section based on the geographical distribution of the quantity of paper and paper-based packaging manufactured in the United States and the quantity of paper and paper-based packaging imported to the United States.

(b) The Board shall be composed of 12 members and shall be established as follows:

(1) *Manufacturers.* Eleven members shall be manufacturers. Of the 11 manufacturers, 10 shall be from the following four regions:

(i) Six members shall be from the South, which consists of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, and all other parts of the United States not listed in paragraphs (b)(1)(ii), (b)(1)(iii), and (b)(1)(iv) of this section;

(ii) One member shall be from the Northeast, which consists of the states of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont;

(iii) Two members shall be from the Midwest, which consists of the states of Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, North Dakota, Ohio, South Dakota, Wisconsin and Wyoming; and

(iv) One member shall be from the West, which consists of the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, and Washington.

(v) One manufacturer member at large may be from any region and shall manufacture at least 100,000 short tons but no more than 250,000 short tons of paper and paper-based packaging annually. If there are no eligible nominees, this seat shall be allocated to the largest producing region specified in paragraphs (b)(1)(i) through (b)(1)(iv) of this section.

(2) *Importers.* One member shall be an importer.

(c) At least once in every five-year period, but not more frequently than once in every three-year period, the Board will review the geographical distribution of the quantity of paper and paper-based packaging manufactured within the United States and the quantity of paper and paper-based packaging imported to the United States. The review will be conducted using the Board's annual assessment receipts and, if available, other reliable reports from the industry. If warranted, the Board will recommend to the Secretary that the membership or size of the Board be adjusted to reflect changes in geographical distribution of the quantity of paper and paper-based packaging manufactured in the United States and the quantity of paper and paper-based packaging imported to the United States. Any changes in Board composition shall be implemented by the Secretary through rulemaking.

§ 1222.41 Nominations and appointments.

(a) Nominees must manufacture or import 100,000 short tons or more of paper and paper-based packaging in a marketing year.

(b) Initial nominations shall be submitted to the Secretary by the Panel. Before considering any nominations, the Panel shall publicize the nomination process, using trade press or other means it deems appropriate, and shall conduct outreach to all known manufacturers and importers manufacturing or importing 100,000 short tons or more of paper and paper-based packaging in a marketing year to generate nominees that reflect the range of operations within the paper and paper-based packaging industry. The Panel may use regional caucuses, mail or other methods to elicit potential nominees. The Panel shall work with USDA to ensure that all eligible candidates are aware of the opportunity to serve on the Board. The Panel shall submit the nominations to the Secretary and recommend two nominees for each Board position specified in § 1222.40(b). The Secretary shall select the initial members of the Board from the nominations submitted by the Panel.

(c) Subsequent nominations shall be conducted as follows:

(1) The Board shall conduct outreach to all known manufacturers and importers manufacturing or importing 100,000 short tons or more of paper and paper-based packaging in a marketing year. Manufacturers and importers may submit nominations to the Board;

(2) Manufacturer and importer nominees may provide the Board a short background statement outlining their qualifications to serve on the Board;

(3) Nominees that are both a manufacturer and an importer may seek nomination to the Board as either a manufacturer or an importer, but not both;

(4) For the domestic seats allocated by region, domestic manufacturers must manufacture paper and paper-based packaging in the region for which they seek nomination. Nominees that manufacture in more than one region may seek nomination in one region of their choice. Nominees must specify for which region they are seeking nomination. The names of manufacturer nominees shall be placed on a ballot by region. The ballots along with the background statements shall be mailed to all manufacturers who manufacture 100,000 short tons or more of paper and paper-based packaging per marketing year. Manufacturers may vote in each region in which they manufacture paper and paper-based packaging. The votes shall be tabulated for each region and the nominees receiving the highest number of votes shall be placed at the top of the list in descending order by vote. The top two candidates for each position shall be submitted to the Secretary;

(5) The names of nominees for at large domestic manufacturers shall be placed on a ballot. The ballots along with the background statements shall be mailed to all manufacturers who manufacture 100,000 short tons or more of paper and paper-based packaging per marketing year. The votes shall be tabulated and the nominees receiving the highest number of votes shall be placed at the top of the list in descending order by vote. The top two candidates shall be submitted to the Secretary;

(6) The names of importer nominees shall be placed on a ballot. The ballots along with background statements shall be mailed to importers who import 100,000 short tons or more of paper and paper-based packaging per marketing year. The votes shall be tabulated and the nominees receiving the highest number of votes shall be placed at the top of the list in descending order by vote. The top two candidates for each position shall be submitted to the Secretary;

(7) The Board must submit nominations to the Secretary at least six months before the new Board term begins;

(8) Any manufacturer or importer nominated to serve on the Board shall file with the Secretary at the time of the nomination a background questionnaire;

(9) From the nominations made pursuant to this section, the Secretary shall appoint the members of the Board on the basis of representation provided in § 1222.40(b);

(10) No two members shall be employed by a single corporation, company, partnership or any other legal entity; and

(11) The Board may recommend to the Secretary modifications to its nomination procedures as it deems appropriate. Any such modifications shall be implemented through rulemaking by the Secretary.

§ 1222.42 Term of office.

(a) With the exception of the initial Board, each Board member shall serve for a term of three years or until the Secretary selects his or her successor. Each term of office shall begin on January 1 and end on December 31. No member may serve more than two full consecutive three-year terms, except as provided in paragraph (b) of this section.

(b) For the initial Board, the terms of the Board members shall be staggered for two, three and four years. Determination of which of the initial members shall serve a term of two, three or four years shall be recommended to the Secretary by the Panel.

§ 1222.43 Removal and vacancies.

(a) The Board may recommend to the Secretary that a member be removed from office if the member consistently fails or refuses to perform his or her duties properly or engages in dishonest acts or willful misconduct. If the Secretary determines that any person appointed under this subpart consistently fails or refuses to perform his or her duties properly or engages in acts of dishonesty or willful misconduct, the Secretary shall remove the person from office. A person appointed under this subpart or any employee of the Board may be removed by the Secretary if the Secretary determines that the person's continued service would be detrimental to the purposes of the Act.

(b) If a member resigns, is removed from office, or in the event of death of any member or if any member of the Board ceases to work for or be affiliated with a manufacturer or importer, or if a manufacturer ceases to do business in the region he or she represents, such position shall become vacant.

(c) If a position becomes vacant, nominations to fill the vacancy will be conducted using the nominations process set forth in this Order or the Board may recommend to the Secretary that he or she appoint a successor from the most recent list of nominations for the position.

(d) A vacancy will not be required to be filled if the unexpired term is less than six months.

§ 1222.44 Procedure.

(a) A majority of the Board members shall constitute a quorum.

(b) Each member of the Board shall be entitled to one vote on any matter put to the Board and the motion will carry if supported by a majority of Board members, except for recommendations to change the assessment rate or to adopt a budget, both of which require affirmation by two-thirds of the total number of Board members.

(c) At an assembled meeting, all votes shall be cast in person.

(d) In lieu of voting at an assembled meeting and, when in the opinion of the chairperson of the Board such action is considered necessary, the Board may take action if supported by a majority of members (unless two-thirds is required under the Order) by mail, telephone, electronic mail, facsimile, or any other means of communication. In that event, all members must be notified and provided the opportunity to vote. Any action so taken shall have the same force and effect as though such action had been taken at an assembled meeting. All votes shall be recorded in Board minutes.

(e) There shall be no proxy voting.

§ 1222.45 Reimbursement and attendance.

Board members shall serve without compensation, but shall be reimbursed for reasonable travel expenses, as approved by the Board, which they incur when performing Board business.

§ 1222.46 Powers and duties.

The Board shall have the following powers and duties:

(a) To administer this subpart in accordance with its terms and conditions and to collect assessments;

(b) To develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the Board, and such rules and regulations as may be necessary to administer the Order, including activities authorized to be carried out under the Order;

(c) To meet not less than annually, organize, and select from among the members of the Board a chairperson, vice chairperson, secretary/treasurer, other officers, and committees and subcommittees, as the Board determines to be appropriate. The committee and subcommittees may include persons other than Board members, including representatives of Board members, as the Board deems necessary and appropriate, provided Board members

or their representative constitute a majority of all committees and subcommittees;

(d) To employ or contract with persons, other than the Board members, as the Board considers necessary to assist the Board in carrying out its duties, and to determine the compensation and specify the duties of the persons;

(e) To notify manufacturers and importers of all Board meetings through a press release or other means and to give the Secretary the same notice of meetings of the Board (including committee, subcommittee, and the like) as is given to members so that the Secretary's representative(s) may attend such meetings, and to keep and report minutes of each meeting of the Board to the Secretary;

(f) To develop and submit programs, plans and projects to the Secretary for the Secretary's approval, and enter into contracts or agreements related to such programs, plans and projects, which must be approved by the Secretary before becoming effective, for the development and carrying out of programs, plans or projects of promotion, research and information. The payment of costs for such activities shall be from funds collected pursuant to this Order. Each contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Board a program, plan or project together with a budget or budgets that shall show the estimated cost to be incurred for such program, plan or project;

(2) The contractor or agreeing party shall keep accurate records of all its transactions and make periodic reports to the Board of activities conducted, submit accounting for funds received and expended, and make such other reports as the Secretary or the Board may require;

(3) The Secretary may audit the records of the contracting or agreeing party periodically; and

(4) Any subcontractor who enters into a contract with a Board contractor and who receives or otherwise uses funds allocated by the Board shall be subject to the same provisions as the contractor.

(g) To prepare and submit for the approval of the Secretary fiscal year budgets in accordance with § 1222.50;

(h) To borrow funds necessary for startup expenses of the Order during the first year of operation by the Board;

(i) To invest assessments collected and other funds received pursuant to the Order and use earnings from invested assessments to pay for activities carried out pursuant to the Order;

(j) To recommend changes to the assessment rates as provided in this part;

(k) To cause its books to be audited by an independent auditor at the end of each fiscal year and at such other times as the Secretary may request, and to submit a report of the audit directly to the Secretary;

(l) To periodically prepare and make public reports of program activities and, at least once each fiscal year, to make public an accounting of funds received and expended;

(m) To maintain such minutes, books and records and prepare and submit such reports and records from time to time to the Secretary as the Secretary may prescribe; to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it; and to keep records that accurately reflect the actions and transactions of the Board;

(n) To act as an intermediary between the Secretary and any manufacturer or importer;

(o) To receive, investigate, and report to the Secretary complaints of violations of the Order;

(p) To recommend to the Secretary such amendments to the Order as the Board considers appropriate; and

(q) To work to achieve an effective, continuous, and coordinated program of promotion, research, and information and to carry out programs, plans, and projects designed to provide maximum benefits to the paper and paper-based packaging industry.

§ 1222.47 Prohibited activities.

The Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in:

(a) Any action that would be a conflict of interest;

(b) Using funds collected by the Board under the Order to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, state, national, and foreign governments or subdivision thereof, other than recommending to the Secretary amendments to the Order; and

(c) No program, plan or project including advertising shall be false, misleading or disparaging to another agricultural commodity. Paper and paper-based packaging of all geographic origins shall be treated equally.

Expenses and Assessments

§ 1222.50 Budget and expenses.

(a) At least 60 calendar days prior to the beginning of each fiscal year, and as may be necessary thereafter, the Board shall prepare and submit to the Department a budget for the fiscal year covering its anticipated expenses and disbursements in administering this part. The budget for research, promotion or information may not be implemented prior to approval by the Secretary. Each such budget shall include:

(1) A statement of objectives and strategy for each program, plan or project;

(2) A summary of anticipated revenue, with comparative data for at least one preceding fiscal year, except for the initial budget;

(3) A summary of proposed expenditures for each program, plan or project; and

(4) Staff and administrative expense breakdowns, with comparative data for at least one preceding fiscal year, except for the initial budget.

(b) Each budget shall provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in this Order.

(c) Subject to this section, any amendment or addition to an approved budget must be approved by the Department, including shifting funds from one program, plan or project to another. Shifts of funds that do not result in an increase in the Board's approved budget and are consistent with governing bylaws need not have prior approval by the Department.

(d) The Board is authorized to incur such expenses, including provision for a reserve, as the Secretary finds reasonable and likely to be incurred by the Board for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from funds received by the Board.

(e) With approval of the Department, the Board may borrow money for the payment of startup expenses subject to the same fiscal, budget, and audit controls as other funds of the Board. Any funds borrowed shall be expended only for startup costs and capital outlays and are limited to the first year of operation by the Board.

(f) The Board may accept voluntary contributions. Such contributions shall be free from any encumbrance by the donor and the Board shall retain complete control of their use. The Board may receive funds from outside sources with approval of the Secretary for specific authorized projects.

(g) The Board shall reimburse the Secretary for all expenses incurred by the Secretary in the implementation, administration, enforcement and supervision of the Order, including all referendum costs in connection with the Order.

(h) For fiscal years beginning three years after the date of the establishment of the Board, the Board may not expend for administration, maintenance, and the functioning of the Board an amount that is greater than 15 percent of the assessment and other income received by and available to the Board for the fiscal year. For purposes of this limitation, reimbursements to the Secretary shall not be considered administrative costs.

(i) The Board may establish an operating monetary reserve and may carry over to subsequent fiscal years excess funds in any reserve so established: *Provided,* That, the funds in the reserve do not exceed one fiscal year's budget of expenses. Subject to approval by the Secretary, such reserve funds may be used to defray any expenses authorized under this subpart.

(j) Pending disbursement of assessments and all other revenue under a budget approved by the Secretary, the Board may invest assessments and all other revenues collected under this part in:

(1) Obligations of the United States or any agency of the United States;

(2) General obligations of any State or any political subdivision of a State;

(3) Interest bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System;

(4) Obligations fully guaranteed as to principal interest by the United States; or

(5) Other investments as authorized by the Secretary.

§ 1222.51 Financial statements.

(a) The Board shall prepare and submit financial statements to the Department on a quarterly basis, or at any other time as requested by the Secretary. Each such financial statement shall include, but not be limited to, a balance sheet, income statement, and expense budget. The expense budget shall show expenditures during the time period covered by the report, year-to-date expenditures, and the unexpended budget.

(b) Each financial statement shall be submitted to the Department within 30 calendar days after the end of the time period to which it applies.

(c) The Board shall submit to the Department an annual financial statement within 90 calendar days after the end of the fiscal year to which it applies.

§ 1222.52 Assessments.

(a) The Board's programs and expenses shall be paid by assessments on manufacturers and importers, other income of the Board, and other funds available to the Board.

(b) Subject to the exemptions specified in § 1222.53, each manufacturer and importer shall pay an assessment to the Board in the amount of 35 cents per short ton or its equivalent manufactured and imported. The assessment shall be on the roll of paper and paper-based packaging manufactured or imported, except that the assessment for cut-size printing and writing paper imported or made by domestic manufacturers prior to leaving the manufacturer's mill shall be on the cut-size paper.

(c) At least 24 months after the Order becomes effective and periodically thereafter, the Board shall review and may recommend to the Secretary, upon an affirmative vote of at least two-thirds of the Board, a change in the assessment rate. A change in the assessment rate is subject to rulemaking by the Secretary.

(d) Domestic manufacturers shall remit to the Board the amount due no later than the 30th calendar day of the month following the end of the quarter in which the paper and paper-based packaging was manufactured.

(e) Each importer of paper and paper-based packaging shall pay through Customs to the Board an assessment on the paper and paper-based packaging imported into the United States identified in the Harmonized Tariff Schedule of the United States (HTSUS) numbers listed in the table below.

Paper and paper-based packaging	Assessment $/kg
4802.54.1000	$.000386
4802.54.3100	.000386
4802.54.5000	.000386
4802.54.6100	.000386
4802.55.1000	.000386
4802.55.2000	.000386
4802.55.4000	.000386
4802.55.6000	.000386
4802.55.7020	.000386
4802.55.7040	.000386
4802.56.1000	.000386
4802.56.2000	.000386
4802.56.4000	.000386
4802.56.6000	.000386
4802.56.70	.000386
4802.57.1000	.000386
4802.57.2000	.000386
4802.57.4000	.000386
4802.58.1000	.000386
4802.58.20	.000386
4802.58.5000	.000386
4802.58.60	.000386
4802.61.1000	.000386
4802.61.2000	.000386
4802.61.30	.000386
4802.61.5000	.000386
4802.61.60	.000386
4802.62.1000	.000386
4802.62.2000	.000386
4802.62.3000	.000386
4802.62.5000	.000386
4802.62.60	.000386
4802.69	.000386
4804.11.0000	.000386
4804.19.0000	.000386
4804.21.0000	.000386
4804.29.0000	.000386
4804.31.40	.000386
4804.31.6000	.000386
4804.39.4020	.000386
4804.39.4049	.000386
4804.39.60	.000386
4804.41.2000	.000386
4804.41.4000	.000386
4804.42.00	.000386
4804.49.0000	.000386
4804.51.0000	.000386
4804.52.00	.000386
4804.59.0000	.000386
4805.11.0000	.000386
4805.12	.000386
4805.19	.000386
4805.24	.000386
4805.25.0000	.000386
4805.91.1010	.000386
4805.91.9000	.000386
4805.92.4010	.000386
4805.92.4030	.000386
4805.93.4010	.000386
4805.93.4030	.000386
4805.93.4050	.000386
4805.93.4060	.000386
4807.00.9100	.000386
4807.00.9400	.000386
4810.13.11	.000386
4810.13.1900	.000386
4810.13.20	.000386
4810.13.5000	.000386
4810.13.6000	.000386
4810.13.70	.000386
4810.14.11	.000386
4810.14.1900	.000386
4810.14.20	.000386
4810.14.5000	.000386
4810.14.6000	.000386
4810.14.70	.000386
4810.19.1100	.000386
4810.19.1900	.000386
4810.19.20	.000386
4810.22.1000	.000386
4810.22.50	.000386
4810.22.6000	.000386
4810.22.70	.000386
4810.29.10	.000386
4810.29.5000	.000386
4810.29.6000	.000386
4810.29.70	.000386
4810.31.1020	.000386
4810.31.1040	.000386
4810.31.3000	.000386
4810.31.6500	.000386
4810.32.10	.000386
4810.32.3000	.000386
4810.32.6500	.000386
4810.39.1200	.000386
4810.39.1400	.000386
4810.39.3000	.000386
4810.39.6500	.000386
4810.92.12	.000386
4810.92.65	.000386
4810.99.1050	.000386
4810.99.6500	.000386
4811.51.2010	.000386

Paper and paper-based packaging	Assessment $/kg
4811.51.2020	.000386
4811.51.2030	.000386
4811.59.4020	.000386
4811.90.8030	.000386

(f) If Customs does not collect an assessment from an importer, the importer is responsible for paying the assessment directly to the Board within 30 calendar days after the end of the quarter in which the paper and paper-based packaging was imported.

(g) When a manufacturer or importer fails to pay the assessment within 60 calendar days of the date it is due, the Board may impose a late payment charge and interest. The late payment charge and rate of interest shall be prescribed in regulations issued by the Secretary. All late assessments shall be subject to the specified late payment charge and interest. Persons failing to remit total assessments due in a timely manner may also be subject to actions under federal debt collection procedures.

(h) The Board may accept advance payment of assessments from any manufacturer or importer that will be credited toward any amount for which that person may become liable. The Board may not pay interest on any advance payment.

(i) If the Board is not in place by the date the first assessments are to be collected, the Secretary shall receive assessments and shall pay such assessments and any interest earned to the Board when it is formed.

§ 1222.53 Exemption from assessment.

(a) *Minimum quantity exemption.* (1) Manufacturers that manufacture less than 100,000 short tons of paper and paper-based packaging in a marketing year are exempt from paying assessments. Such manufacturers must apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the marketing year. This is an annual exemption and manufacturers must reapply each year. Such manufacturers shall certify that they will manufacture less than 100,000 short tons of paper and paper-based packaging during the marketing year for which the exemption is claimed. Upon receipt of an application for exemption, the Board shall determine whether an exemption may be granted. The Board may request past manufacturing data to support the exemption request. The Board will issue, if deemed appropriate, a certificate of exemption to the eligible manufacturer. It is the responsibility of the manufacturer to retain a copy of the certificate of exemption.

(2) Importers that import into the United States less than 100,000 short tons of paper and paper-based packaging in a marketing year are exempt from paying assessments. This is an annual exemption and importers must qualify each year.

(i) Importers that imported less than 100,000 short tons of paper and paper-based packaging during the prior marketing year shall automatically be considered exempt during the upcoming marketing year. Customs data will be reviewed to verify applicable importers.

(ii) Importers that imported more than 100,000 short tons of paper and paper-based packaging during the prior marketing year, but believe and can document that they will import less than 100,000 short tons of paper and paper-based packaging during the upcoming marketing year, may apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the fiscal year. Such importers shall certify that they will import less than 100,000 short tons of paper and paper-based packaging during the marketing year for which the exemption is claimed. Upon receipt of an application for exemption, the Board shall determine whether an exemption may be granted. The Board may request past import data and other documentation to support the exemption request. The Board will issue, if deemed appropriate, a certificate of exemption to the eligible importer. It is the responsibility of the importer to retain a copy of the certificate of exemption.

(iii) The Board shall refund such importers considered exempt their assessments as collected by Customs no later than 60 calendar days after receipt of such assessments by the Board. The Board will stop refund of assessments to such importers who during the marketing year import more than 100,000 short tons of paper and paper based packaging. These importers will be notified accordingly. No interest shall be paid on the assessments collected by Customs or the Board.

(3) Manufacturers that did not apply to the Board for an exemption and that manufactured less than 100,000 short tons of paper and paper-based packaging during the marketing year shall automatically receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the marketing year. Board staff shall determine the assessments paid and refund the amount due to the manufacturer accordingly.

(4)Importers that did not apply to the Board for an exemption, imported more than 100,000 short tons of paper and paper-based packaging during the prior marketing year, and that imported less than 100,000 short tons of paper and paper-based packaging during the marketing year shall automatically receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the marketing year.

(5) If an entity is a manufacturer and an importer, such entity's combined quantity of paper and paper-based packaging manufactured and imported during a marketing year shall count towards the 100,000 short ton-exemption.

(6) Manufacturers and importers that received an exemption certificate or an automatic exemption from the Board but manufactured or imported 100,000 short tons or more of paper and paper-based packaging during the marketing year shall pay the Board the applicable assessments owed on the quantity manufactured or imported within 30 calendar days after the end of the marketing year and submit any necessary reports to the Board pursuant to § 1222.70.

(7) The Board may develop additional procedures to administer this exemption as appropriate. Such procedures shall be implemented through rulemaking by the Secretary.

(b) *Organic.* (1) Organic Act means section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6501–6522).

(2) A manufacturer who operates under an approved National Organic Program (NOP) (7 CFR part 205) system plan, only manufactures paper and paper-based packaging that is eligible to be labeled as 100 percent organic under the NOP and is not a split operation shall be exempt from payment of assessments. To obtain an organic exemption, an eligible manufacturer shall submit a request for exemption to the Board, on a form provided by the Board, at any time initially and annually thereafter on or before the start of the fiscal year as long as such manufacturer continues to be eligible for the exemption. The request shall include the following: The manufacturer's name and address; a copy of the organic operation certificate provided by a USDA-accredited certifying agent as defined in the Organic Act, a signed certification that the applicant meets all of the requirements specified for an assessment exemption, and such other information as may be required by the Board and with the approval of the Secretary. The Board shall have 30

calendar days to approve the exemption request. If the exemption is not granted, the Board will notify the applicant and provide reasons for the denial within the same time frame.

(3) An importer who imports only paper and paper-based packaging that is eligible to be labeled as 100 percent organic under the NOP and is not a split operation shall be exempt from the payment of assessments. To obtain an organic exemption, an eligible importer must submit documentation to the Board and request an exemption from assessment on 100 percent of organic paper and paper-based packaging, on a form provided by the Board, at any time initially and annually thereafter on or before the beginning of the fiscal year as long as the importer continues to be eligible for the exemption. This documentation shall include the same information as required by manufacturers in paragraph (b)(2) of this section. If the importer complies with the requirements of this section, the Board will grant the exemption and issue a Certificate of Exemption to the importer. The Board will also issue the importer a 9-digit alphanumeric number valid for 1 year from the date of issue. This alphanumeric number should be entered by the importer to Customs at entry summary. Any line item entry of 100 percent organic paper and paper-based packaging bearing this alphanumeric number assigned by the Board will not be subject to assessments.

(4) Importers who are exempt from assessment in paragraph (d)(3) of this section shall also be eligible for reimbursement of assessments collected by Customs and may apply to the Board for a reimbursement. The importer would be required to submit satisfactory proof to the Board that the importer paid the assessment on exempt organic products.

(5) The exemption will apply immediately following the issuance of the exemption certificate.

Promotion, Research and Information

§ 1222.60 Programs, plans and projects.

(a) The Board shall develop and submit to the Secretary for approval programs, plans and projects authorized by this subpart. Such programs, plans and projects shall provide for promotion, research, information and other activities including consumer and industry information and advertising.

(b) No program, plan or project shall be implemented prior to its approval by the Secretary. Once a program, plan or project is so approved, the Board shall take appropriate steps to implement it.

(c) The Board must evaluate each program, plan and project authorized under this subpart to ensure that it contributes to an effective and coordinated program of research, promotion and information. The Board must submit the evaluations to the Secretary. If the Board finds that a program, plan or project does not contribute to an effective program of promotion, research, or information, then the Board shall terminate such program, plan or project.

§ 1222.61 Independent evaluation.

At least once every five years, the Board shall authorize and fund from funds otherwise available to the Board, an independent evaluation of the effectiveness of the Order and the programs conducted by the Board pursuant to the Act. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this section.

§ 1222.62 Patents, copyrights, trademarks, inventions, product formulations, and publications.

Any patents, copyrights, trademarks, inventions, product formulations, and publications developed through the use of funds received by the Board under this subpart shall be the property of the U.S. Government, as represented by the Board, and shall along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, trademarks, inventions, product formulations, or publications, inure to the benefit of the Board, shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board, and may be licensed subject to approval by the Secretary. Upon termination of this subpart, § 1222.83 shall apply to determine disposition of all such property.

Reports, Books, and Records

§ 1222.70 Reports.

(a) Manufacturers and importers will be required to provide periodically to the Board such information as the Board, with the approval of the Secretary, may require. Such information may include, but not be limited to:

(1) For manufacturers:

(i) The name, address and telephone number of the manufacturer; and

(ii) The quantity of paper and paper-based packaging manufactured by type.

(2) For importers:

(i) The name, address and telephone number of the importer;

(ii) The quantity of paper and paper-based packaging imported by type; and

(iii) The country of export.

(b) For manufacturers, such information shall be reported to the Board no later than the 30th calendar day of the month following the end of the quarter in which the paper and paper-based packaging was manufactured and shall accompany the collected payment of assessments as specified in § 1222.52. First quarter data (January–March) shall be reported to the Board no later than the 30th calendar day of April; second quarter data (April–June) shall be reported no later than the 30th calendar day of July; third quarter data (July–September) shall be reported no later than the 30th calendar day of October; and fourth quarter data (October–December) shall be reported no later than the 30th calendar day of January of the following marketing year.

(c) For importers who pay their assessments directly to the Board, such information shall accompany the payment of collected assessments within 30 calendar days after the end of the quarter in which the paper and paper-based packaging was imported specified in § 1222.52.

§ 1222.71 Books and records.

Each manufacturer and importer shall maintain any books and records necessary to carry out the provisions of this subpart and regulations issued thereunder, including such records as are necessary to verify any required reports. Such books and records must be made available during normal business hours for inspection by the Board's or Secretary's employees or agents. Manufacturers and importers must maintain the books and records for two years beyond the fiscal year to which they apply.

§ 1222.72 Confidential treatment.

All information obtained from books, records, or reports under the Act, this subpart and the regulations issued thereunder shall be kept confidential by all persons, including all employees and former employees of the Board, all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Board members or manufacturers and importers. Only those persons having a specific need for such information solely to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed by them, and then only in a

judicial proceeding or administrative hearing brought at the direction, or at the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(b) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this part, together with a statement of the particular provisions of this part violated by such person.

Miscellaneous

§ 1222.80 Right of the Secretary.

All fiscal matters, programs, plans or projects, contracts, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1222.81 Referenda.

(a) *Initial referendum.* The Order shall not become effective unless the Order is approved by a majority of manufacturers and importers voting in the referendum who also represent a majority of the volume of paper and paper-based packaging represented in the referendum and who, during a representative period determined by the Secretary, have been engaged in the manufacturing or importation of paper and paper-based packaging. A single entity who domestically manufactures and imports paper and paper-based packaging may cast one vote in the referendum.

(b) *Subsequent referenda.* The Secretary shall conduct subsequent referenda:

(1) For the purpose of ascertaining whether manufacturers and importers favor the amendment, continuation, suspension, or termination of the Order;

(2) Not later than seven years after this Order becomes effective and every seven years thereafter, to determine whether manufacturers and importers favor the continuation of the Order. The Order shall continue if it is favored by a majority of manufacturers and importers voting in the referendum who also represent a majority of the volume of paper and paper-based packaging represented in the referendum and who, during a representative period determined by the Secretary, have been engaged in the manufacturing or importation of paper and paper-based packaging;

(3) At the request of the Board established in this Order;

(4) At the request of 10 percent or more of the number of persons eligible to vote in a referendum as set forth under the Order; or

(5) At any time as determined by the Secretary.

§ 1222.82 Suspension or termination.

(a) The Secretary shall suspend or terminate this part or subpart or a provision thereof, if the Secretary finds that this part or subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act, or if the Secretary determines that this subpart or a provision thereof is not favored by persons voting in a referendum conducted pursuant to the Act.

(b) The Secretary shall suspend or terminate this subpart at the end of the fiscal year whenever the Secretary determines that its suspension or termination is favored by a majority of manufacturers and importers voting in the referendum who also represent a majority of the volume represented in the referendum who, during a representative period determined by the Secretary, have been engaged in the manufacturing or importation of paper and paper-based packaging.

(c) If, as a result of a referendum the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Not later than one hundred and eighty (180) calendar days after making the determination, suspend or terminate, as the case may be, the collection of assessments under this subpart.

(2) As soon as practical, suspend or terminate, as the case may be, activities under this subpart in an orderly manner.

§ 1222.83 Proceedings after termination.

(a) Upon termination of this subpart, the Board shall recommend to the Secretary up to five of its members to serve as trustees for the purpose of liquidating the Board's affairs. Such persons, upon designation by the Secretary, shall become trustees of all of the funds and property then in the possession or under control of the Board, including claims for any funds unpaid or property not delivered, or any other existing claim at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into pursuant to the Order;

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and trustees, to such person or person as the Secretary directs; and

(4) Upon request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such persons title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to the Order.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to the Order shall be subject to the same obligations imposed upon the Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be disposed of, to the extent practical, to one or more paper and paper-based packaging organizations in the United States whose mission is generic promotion, research, and information programs.

§ 1222.84 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary or of any other persons, with respect to any such violation.

§ 1222.85 Personal liability.

No member or employee of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty or willful misconduct.

§ 1222.86 Separability.

If any provision of this subpart is declared invalid or the applicability of it to any person or circumstances is held invalid, the validity of the remainder of this subpart, or the applicability thereof

to other persons or circumstances shall not be affected thereby.

§ 1222.87 Amendments.

Amendments to this subpart may be proposed from time to time by the Board or any interested person affected by the provisions of the Act, including the Secretary.

§ 1222.88 OMB control numbers.

The control numbers assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, are OMB control number 0505–0001 (Board nominee background statement) and OMB control number 0581–0281.

Dated: January 14, 2014.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2014–01002 Filed 1–21–14; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL REGISTER

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Title 3—

The President

Proclamation 9078 of January 22, 2014

Martin Luther King, Jr., Federal Holiday, 2014

By the President of the United States of America

A Proclamation

Each year, America sets aside a day to remember a giant of our Nation's history and a pioneer of the Civil Rights Movement. During his lifelong struggle for justice and equality, the Reverend Dr. Martin Luther King, Jr., gave mighty voice to the quiet hopes of millions, offered a redemptive path for oppressed and oppressors alike, and led a Nation to the mountaintop. Behind the bars of a Birmingham jail cell, he reminded us that ''injustice anywhere is a threat to justice everywhere.'' On a hot summer day, under the shadow of the Great Emancipator, he challenged America to make good on its founding promise, and he called on every lover of freedom to walk alongside their brothers and sisters.

As we marked the 50th Anniversary of the March on Washington for Jobs and Freedom last August, we noted the depth of courage and character assembled on the National Mall that day. We honored all who marched, bled, and died for civil rights. And we celebrated the great victories of the last half century—civil rights and voting rights laws; new opportunities in the classroom and the workforce; a more fair and free America, not only for African Americans, but for us all.

We were also reminded that our journey is not complete. It is our task to build on the gains of past generations, from challenging new barriers to the vote to ensuring the scales of justice work equally for all people. And we must advance another cause central to both Dr. King's career and the Civil Rights Movement—the dignity of good jobs, decent wages, quality education, and a fair deal. Because America's promise is not only the absence of oppression but also the presence of opportunity, we must make our Nation one where anyone willing to work hard is admitted into the ranks of a rising, thriving middle class.

Dr. King taught us that ''an individual has not started living until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity.'' In honor of this spirit, Americans across the country will come together for a day of service. By volunteering our time and energy, we can build stronger, healthier, more resilient communities. Today, let us put aside our narrow ambitions, lift up one another, and march a little closer to the Nation Dr. King envisioned.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim January 20, 2014, as the Martin Luther King, Jr., Federal Holiday. I encourage all Americans to observe this day with appropriate civic, community, and service projects in honor of Dr. King and to visit www.MLKDay.gov to find Martin Luther King, Jr., Day of Service projects across our country.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of January, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2014–01413
Filed 1–21–14; 11:15 am]
Billing code 3295–F4

Presidential Documents

Notice of January 21, 2014

Continuation of the National Emergency With Respect to Terrorists Who Threaten To Disrupt the Middle East Peace Process

On January 23, 1995, by Executive Order 12947, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by grave acts of violence committed by foreign terrorists who threaten to disrupt the Middle East peace process. On August 20, 1998, by Executive Order 13099, the President modified the Annex to Executive Order 12947 to identify four additional persons who threaten to disrupt the Middle East peace process. On February 16, 2005, by Executive Order 13372, the President clarified the steps taken in Executive Order 12947.

Because these terrorist activities continue to threaten the Middle East peace process and to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency declared on January 23, 1995, and the measures adopted to deal with that emergency must continue in effect beyond January 23, 2014. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to foreign terrorists who threaten to disrupt the Middle East peace process.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,

January 21, 2014.

[FR Doc. 2014–01414

Filed 1–21–14; 11:15 am]

Billing code 3295–F4

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