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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 25

[Docket No. FAA–2014–0239; Notice No. 25–545–SC]

Special Conditions: Dassault Aviation, Falcon 2000/2000EX Series Airplanes; Fire Containment Containers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions; Request for Comments.

SUMMARY: These special conditions are issued for the Dassault Aviation Falcon 2000/2000EX series airplanes. These airplanes will have a novel or unusual design feature associated with the installation of removable storage lockers (fire containment containers) to be installed in the forward servicing compartment, which is un-pressurized, and not accessible in flight. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is June 6, 2014. We must receive your comments by July 7, 2014.

ADDRESSES: Send comments identified by docket number FAA–2014–0239 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Stephen Happenny, FAA, Propulsion and Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2147; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. The FAA therefore finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On November 30, 2011, Dassault Aviation applied for a change to Type Certificate No. A50NM for the installation of removable storage lockers of two possible sizes (approximately 6.9 and 8.1 cubic feet in volume) in the forward servicing compartment (FSC) of the Falcon 2000/2000EX series airplanes. The Falcon 2000/2000EX are business-class airplanes powered by two turbofan engines, designed for a maximum of 21 occupants, with a maximum takeoff weight of 36,500 pounds for the Falcon 2000 and 42,800 pounds for the Falcon 2000EX.

The FSC is an un-pressurized compartment that is not accessible in flight. It is accessible on the ground from a lockable external door located in the lower aft fuselage. The removable storage lockers (fire containment containers) that will be installed in the FSC will be used mainly for stowage of items to support airplane operations such as the tow bar, ladder, fly-away kit/Electronic Control Unit cover, tool box, and limited passenger items (i.e., golf clubs/golf bags, skis/ski bags). The existing regulations do not adequately address small, inaccessible cargo compartments of this type and function. These special conditions are necessary to ensure a level of safety equivalent to that provided by existing regulations.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Dassault Aviation must show that the Falcon 2000/2000EX series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A50NM or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type

Certification No. A50NM are as follows: 14 CFR part 25, as amended by Amendments 25–1 through 25–69 for the Falcon 2000 and 25–1 through 25–98 for the Falcon 2000EX, and 14 CFR part 26, as amended by Amendments 26–1 through 26–6. Dassault Aviation also elects to comply with §§ 25.855, 25.857, and 25.601 through Amendment 25–123, effective December 10, 2007.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Falcon 2000/2000EX series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

In addition to the applicable airworthiness regulations and special conditions, the Falcon 2000/2000EX series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Falcon 2000/2000EX series airplanes will incorporate the following novel or unusual design feature: Removable storage lockers (fire containment containers) installed in the forward servicing compartment (FSC). The FSC is un-pressurized and not accessible in flight; it is accessible on the ground from a lockable, external door located in the lower aft fuselage. The FSC area is designed to host several critical systems; therefore, considering past experience on cargo loading, appropriate design and procedures must be in place to ensure safe installation.

Discussion

Sections 25.855 provides the design and test requirements for cargo compartments, and § 25.857 describes cargo compartment classifications. The removable storage lockers to be installed in the Falcon 2000/2000EX do not meet any of the existing FAA cargo compartment classifications of cargo compartments and, therefore, would not meet all of the requirements of §§ 25.855 and 25.857.

The European Aviation Safety Agency (EASA) determined that the installation of removable storage lockers in the FSC, except the tow bar and the maintenance ladder stowage, is not compliant with their corresponding Joint Aviation Regulations (JAR) 25.855 and 25.857. EASA's position is that the proposed design and configuration corresponds most closely to, but does not fully meet, a Class F cargo compartment classification defined in their Certification Specifications (CS) 25.857(f) at Amendment 11 in the Fire Containment Container (FCC) option. Class F cargo compartments are further detailed in their Acceptable Means of Compliance (AMC) to CS 25.857(f). FAA is in the rulemaking process of incorporating similar regulations into 14 CFR part 25, and we concur with EASA findings.

EASA proposed special conditions for the approval of these installations. The FAA reviewed the proposed special conditions and determined that they are functionally equivalent to what we would have issued, and that they provide an acceptable level of safety as related to fire containment containers and the requirements of §§ 25.601, 25.855, and 25.857. The FAA finding was based in part on consideration that the proposed containers are not intended to be used for ''cargo for hire'' or carriage of oxygen or oxygen producing equipment; the container is not intended to be used for carriage of flammable fluids; and, the container is not intended to be used for carriage of more typical passenger/crew baggage, only for the carriage of passenger ski and golf equipment.

Applicability

As discussed above, these special conditions are applicable to the Dassault Aviation Falcon 2000/2000EX series airplanes. Should Dassault Aviation apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on two model series of airplanes. It is not a rule of general applicability.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Dassault Falcon 2000/2000EX series airplanes is imminent, the FAA finds that good cause exists to make these special conditions effective upon publication in the **Federal Register**.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Dassault Aviation Falcon 2000/2000EX series airplanes.

Fire Containment Containers

1. In order to be acceptable, a container to be placed in the aft unpressurized compartment must comply with the following:

a. The container must be constructed of materials compliant with 14 CFR part 25, appendix F, part III and be sufficiently durable to withstand in-service conditions.

b. It must be demonstrated by test that the container is capable of containing a wide range of internal fire threats, for any period of time, while ensuring that adjacent systems, structure, and occupied areas are protected from the effects of smoke, flames, extinguishing agent, heat, or any other adverse effect. It must also be demonstrated that damage to the airplane's systems or structure cannot be caused by the use of the container.

c. The Operating Limitations section of the Airplane Flight Manual must contain a content limitation, approved by the FAA and justified on the base of operational need and demonstrated low-fire risk. The content limitation must:

- Require that any fire containment container be clearly identified with placards on the container and in the compartment hosting the container;
- Be reflected on any weight and balance or other document used to load the airplane; and
- Include easy-to-follow procedures for loading, installation, and de-installation of the container, e.g., airplane flight crew verification of content before every flight, installation/de-installation only by qualified personnel, etc.

Issued in Renton, Washington, on April 4, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–13239 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–1041; Notice No. 25–546–SC]

Special Conditions: Bombardier Aerospace, Models BD–500–1A10 and BD–500–1A11 Series Airplanes; Electronic Flight Control System: Control Surface Awareness and Mode Annunciation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are issued for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes. These airplanes will have a novel or unusual design feature associated with control surface awareness and mode annunciation of the electronic flight control system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* July 7, 2014.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane and Flightcrew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2011; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2009, Bombardier Aerospace applied for a type certificate for their new Models BD–500–1A10 and BD–500–1A11 series airplanes (hereafter collectively referred to as ''CSeries''). The CSeries airplanes are swept-wing monoplanes with an aluminum alloy fuselage sized for 5-abreast seating. Passenger capacity is designated as 110 for the Model BD–500–1A10 and 125 for the Model BD–500–1A11. Maximum takeoff weight is 131,000 pounds for the Model BD–500–1A10 and 144,000 pounds for the Model BD–500–1A11.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Bombardier Aerospace must show that the CSeries airplanes meet the applicable provisions of 14 CFR part 25 as amended by Amendments 25–1 through 25–129 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the CSeries airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the CSeries airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The CSeries airplanes will incorporate the following novel or unusual design features: A fly-by-wire electronic flight control system (EFCS) and no direct coupling from the flightdeck controller to the control surface. As a result, the pilot is not aware of the actual control surface position as envisioned under current airworthiness standards.

Discussion

These special conditions require that the flightcrew receive a suitable flight control position annunciation when a flight condition exists in which nearly full surface authority (not crew-commanded) is being used. Suitability of such a display must take into account that some pilot-demanded maneuvers (e.g., rapid roll) are necessarily associated with intended full performance, which may saturate the surface. Therefore, simple alerting systems function in both intended and unexpected control-limiting situations. As a result, they must be properly balanced between providing necessary crew awareness and being a potential nuisance to the flightcrew. A monitoring system that compares airplane motion and surface deflection with the demand of the pilot side stick controller could help reduce nuisance alerting.

These special conditions also address flight control system mode annunciation. Suitable mode annunciation must be provided to the flightcrew for events that significantly change the operating mode of the system but do not merit the classic ''failure warning.''

These special conditions establish a level of safety equivalent to that provided by a conventional flight control system and existing regulations.

Discussion of Comments

Notice of proposed special conditions No. 25–13–40–SC for the Bombardier CSeries airplanes was published in the **Federal Register** on December 12, 2013 (78 FR 75511). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Models BD–500–1A10 and BD–500–1A11 series airplanes. Should Bombardier Aerospace apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on two model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes.

Electronic Flight Control System: Control Surface Awareness and Mode Annunciation

■ 1. In addition to the requirements of §§ 25.143, 25.671, and 25.672, the following requirements apply:

a. The system design must ensure that the flightcrew is made suitably aware whenever the primary control means nears the limit of control authority.

Note: The term ''suitably aware'' indicates annunciations provided to the flightcrew are appropriately balanced between nuisance and that necessary for crew awareness.

b. If the design of the flight control system has multiple modes of operation, a means must be provided to indicate to the flightcrew any mode that significantly changes or degrades the normal handling or operational characteristics of the airplane.

Issued in Renton, Washington, on April 22, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–13240 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–1039; Notice No. 25–547–SC]

Special Conditions: Bombardier Aerospace, Models BD–500–1A10 and BD–500–1A11 Series Airplanes; Flight Envelope Protection: Normal Load Factor (g) Limiting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are issued for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes. These airplanes will have a novel or unusual design feature associated with an electronic flight control system that prevents the pilot from inadvertently or intentionally exceeding the positive or negative airplane limit load factor. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* July 7, 2014.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2011; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2009, Bombardier Aerospace applied for a type certificate for their new Models BD–500–1A10 and BD–500–1A11 series airplanes (hereafter collectively referred to as ''CSeries''). The CSeries airplanes are swept-wing monoplanes with an aluminum alloy fuselage sized for 5-abreast seating. Passenger capacity is designated as 110 for the Model BD–500–1A10 and 125 for the Model BD–500–1A11. Maximum takeoff weight is 131,000 pounds for the Model BD–500–1A10 and 144,000 pounds for the Model BD–500–1A11.

The design of the electronic flight control system for the CSeries airplanes incorporates normal load factor limiting on a full time basis that prevents the flightcrew from inadvertently or intentionally exceeding the positive or negative airplane limit load factor. This feature is considered novel and unusual in that the current regulations do not provide standards for maneuverability and controllability evaluations for such systems.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Bombardier Aerospace must show that the CSeries airplanes meet the applicable provisions of part 25 as amended by Amendments 25–1 through 25–129 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the CSeries airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the CSeries airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The CSeries airplanes will use a fly-by-wire electronic flight control system (EFCS). This system provides an electronic interface between the pilot's flight controls and the flight control surfaces for both normal and failure states; and it generates the actual surface commands that provide for stability augmentation and control about all three airplane axes.

The design of the EFCS incorporates the following novel or unusual design feature: Normal load factor limiting on a full-time basis that will prevent the flight crew from inadvertently or intentionally exceeding the positive or negative airplane limit load factor. This feature is considered novel or unusual because the current regulations do not provide standards for maneuverability and controllability evaluations for such systems. Therefore, special conditions are needed to ensure adequate maneuverability and controllability when using this design feature.

Discussion

Title 14, Code of Federal Regulations, part 25 does not specify requirements or policy for demonstrating maneuver control that impose any handling qualities requirements beyond the design limit structural loads. Nevertheless, some pilots have become accustomed to the availability of this excess maneuver capacity in case of extreme emergency such as upset recoveries or collision avoidance.

As with previous fly-by-wire airplanes, the FAA has no regulatory or safety reason to prohibit a design for an electronic flight control system with load factor limiting. It is possible that pilots accustomed to this feature feel more freedom in commanding full-stick displacement maneuvers because of the following:

- Knowledge that the limit system will protect the structure,
- Low stick force/displacement gradients,
- Smooth transition from pilot elevator control to limit control.

These special conditions will ensure adequate maneuverability and controllability when using this design feature.

The normal load factor limit on the CSeries airplanes is unique in that traditional airplanes with conventional flight control systems (mechanical linkages) are limited in the pitch axis only by the elevator surface area and deflection limit. The elevator control power is normally derived for adequate controllability and maneuverability at the most critical longitudinal pitching moment. The result is that traditional airplanes have a significant portion of the flight envelope wherein maneuverability in excess of limit structural design values is possible.

These special conditions for the CSeries airplanes supplement the applicable regulations, including § 25.143, to accommodate the unique features of the flight envelope limiting systems, and establish an equivalent level of safety to the existing regulations.

Discussion of Comments

Notice of proposed special conditions No. 25–13–38–SC for the Bombardier CSeries airplanes was published in the **Federal Register** on December 11, 2013 (78 FR 75285). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Models BD–500–1A10 and BD–500–1A11 series airplanes. Should Bombardier Aerospace apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on two model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes.

Flight Envelope Protection: Normal Load Factor (g) Limiting

■ 1. To meet the intent of adequate maneuverability and controllability required by § 25.143(a), and in addition to the requirements of § 25.143(a) and in the absence of other limiting factors, the following special conditions based on § 25.333(b) apply:

a. The positive limiting load factor must not be less than:

(1) 2.5g for the normal state of the electronic flight control system with the high lift devices retracted.

(2) 2.0g for the normal state of the electronic flight control system with the high lift devices extended.

b. The negative limiting load factor must be equal to or more negative than:

(1) Minus 1.0g for the normal state of the electronic flight control system with the high lift devices retracted.

(2) 0.0g for the normal state of the electronic flight control system with high lift devices extended.

c. Maximum reachable positive load factor wings level may be limited by the characteristics of the electronic flight control system or flight envelope protections (other than load factor protection) provided that:

(1) The required values are readily achievable in turns, and

(2) That wings level pitch up is satisfactory.

d. Maximum achievable negative load factor may be limited by the characteristics of the electronic flight control system or flight envelope protections (other than load factor protection) provided that:

(1) Pitch down responsiveness is satisfactory, and

(2) From level flight, 0g is readily achievable or alternatively, a satisfactory trajectory change is readily achievable at operational speeds. For the FAA to consider a trajectory change as satisfactory, the applicant should propose and justify a pitch rate that provides sufficient maneuvering capability in the most critical scenarios.

e. Compliance demonstration with the above requirements may be performed without ice accretion on the airframe.

These special conditions do not impose an upper bound for the normal load factor limit, nor do they require that the limit exist. If the limit is set at a value beyond the structural design limit maneuvering load factor ''n'' of §§ 25.333(b) and 25.337(b) and (c), there should be a very obvious positive tactile feel built into the controller so that it serves as a deterrent to inadvertently exceeding the structural limit.

Issued in Renton, Washington, on April 22, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–13241 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–1040; Notice No. 25–548–SC]

Special Conditions: Bombardier Aerospace, Models BD–500–1A10 and BD–500–1A11 Series Airplanes; Flight Envelope Protection: General Limiting Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are issued for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes. These airplanes will have a novel or unusual design feature associated with a new control architecture and a full digital flight control system that provides flight envelope protections. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* July 7, 2014.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2011; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2009, Bombardier Aerospace applied for a type certificate for their new Models BD–500–1A10 and BD–500–1A11 series airplanes (hereafter collectively referred to as ''CSeries''). The CSeries airplanes are swept-wing monoplanes with an aluminum alloy fuselage sized for 5-abreast seating. Passenger capacity is designated as 110 for the Model BD–500–1A10 and 125 for the Model BD–500–1A11. Maximum takeoff weight is 131,000 pounds for the

Model BD–500–1A10 and 144,000 pounds for the Model BD–500–1A11.

Bombardier has developed comprehensive flight envelope protection features integral to the CSeries electronic flight control system (EFCS) design. These flight envelope protection features include limitations on angle-of-attack, normal load factor, bank angle, pitch angle, and speed. To accomplish this flight envelope limiting, a significant change (or multiple changes) occurs in the EFCS control laws as the limit is approached or exceeded. When EFCS failure states occur, flight envelope protection features can likewise either be modified, or in some cases, eliminated. The current regulations were not written with these comprehensive flight envelope limiting systems in mind.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Bombardier Aerospace must show that the CSeries airplanes meet the applicable provisions of part 25 as amended by Amendments 25–1 through 25–129 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the CSeries airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the CSeries airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The CSeries airplanes will incorporate the following novel or unusual design features: New control architecture and a full digital flight control system that provides comprehensive flight envelope protections.

Discussion

The applicable airworthiness regulation is 14 CFR 25.143. The purpose of § 25.143 is to verify that any operational maneuvers conducted within the operational envelope can be accomplished smoothly with average piloting skill and without exceeding any structural limits. The pilot should be able to predict the airplane response to any control input. During the course of the flight test program, the pilot determines compliance with § 25.143 primarily through qualitative methods. During flight test, the pilot should evaluate all of the following:

- The interface between each protection function;
- Transitions from one mode to another;
- Airplane response to intentional dynamic maneuvering, whenever applicable, through dedicated maneuvers;
- General controllability assessment;
- High speed characteristics; and
- High angle-of-attack.

Section 25.143, however, does not adequately ensure that the novel or unusual features of the CSeries airplanes will have a level of safety equivalent to that of existing standards. These special conditions are therefore required to accommodate the flight envelope limiting systems in the CSeries airplanes. The additional safety standards in these special conditions will ensure a level of safety equivalent to that of existing standards.

Discussion of Comments

Notice of proposed special conditions No. 25–13–39–SC for the Bombardier CSeries airplanes was published in the **Federal Register** on December 11, 2013 (78 FR 75287). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Models BD–500–1A10 and BD–500–1A11 series airplanes. Should Bombardier Aerospace apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on two model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes.

1. General Limiting Requirements:

a. Onset characteristics of each envelope protection feature must be smooth, appropriate to the phase of flight and type of maneuver, and not in conflict with the ability of the pilot to satisfactorily change airplane flight path, speed, or attitude as needed.

b. Limit values of protected flight parameters (and, if applicable, associated warning thresholds) must be compatible with the following:

i. Airplane structural limits;

ii. Required safe and controllable maneuvering of the airplane; and

iii. Margins to critical conditions. Unsafe flight characteristics/conditions must not result if dynamic maneuvering, airframe and system tolerances (both manufacturing and in-service), and non-steady atmospheric conditions, in any appropriate combination and phase of flight, can produce a limited flight parameter beyond the nominal design limit value.

c. The airplane must be responsive to intentional dynamic maneuvering to within a suitable range of the parameter limit. Dynamic characteristics such as damping and overshoot must also be appropriate for the flight maneuver and limit parameter in question.

d. When simultaneous envelope limiting is engaged, adverse coupling or adverse priority must not result.

2. Failure States: Electronic flight control system failures (including sensor) must not result in a condition where a parameter is limited to such a reduced value that safe and controllable maneuvering is no longer available. The crew must be alerted by suitable means if any change in envelope limiting or maneuverability is produced by single or multiple failures of the electronic flight control system not shown to be extremely improbable.

Issued in Renton, Washington, April 22, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–13242 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–1038; Special Conditions No. 25–549–SC]

Special Conditions: Bombardier Aerospace, Models BD–500–1A10 and BD–500–1A11 Series Airplanes; Flight Envelope Protection: High-Speed Limiting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are issued for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes. These airplanes will have a novel or unusual design feature associated with an electronic flight control system that contains fly-by-wire control laws, including envelope protections, for the overspeed protection and roll-limiting function. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* July 7, 2014.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2011; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2009, Bombardier Aerospace applied for a type certificate for their new Models BD–500–1A10 and BD–500–1A11 series airplanes (hereafter collectively referred to as ''CSeries''). The CSeries airplanes are swept-wing monoplanes with an aluminum alloy fuselage sized for 5-abreast seating. Passenger capacity is designated as 110 for the Model BD–500–1A10 and 125 for the Model BD–500–1A11. Maximum takeoff weight is 131,000 pounds for the Model BD–500–1A10 and 144,000 pounds for the Model BD–500–1A11.

The longitudinal control law design of the Bombardier CSeries airplanes incorporates an overspeed protection system in the normal mode. This mode prevents the pilot from inadvertently or intentionally exceeding a speed approximately equivalent to the maximum speed for stability characteristics (V_{FC}) or attaining demonstrated flight diving speed (V_{DF}). Current Title 14, Code of Federal Regulations (14 CFR) part 25 standards did not envision a high-speed limiter that might preclude or modify flying qualities assessments in the overspeed region.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Bombardier Aerospace must show that the CSeries airplanes meet the applicable provisions of part 25 as amended by Amendments 25–1 through 25–129 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the CSeries airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the CSeries airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The CSeries airplanes will incorporate the following novel or unusual design features: An electronic flight control system that contains fly-by-wire control laws, including envelope protections, for the overspeed protection and roll-limiting function. Current part 25 requirements do not contain appropriate standards for high-speed protection systems.

Discussion

The overspeed protection functionality includes multifunction spoilers (MFS) that will automatically deploy as speed brakes once the airspeed exceeds a small tolerance above maximum operating limit speed (V_{mo}/M_{mo}); the MFS will retract automatically when speed is subsequently reduced. Special conditions are necessary in addition to the requirements of § 25.143 for the operation of the high-speed protection. The general intent is that the overspeed protection does not impede normal maneuvering and speed control, and that the overspeed protection does not restrict or prevent emergency maneuvering.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of proposed special conditions No. 25–13–38–SC for the Bombardier CSeries airplanes was published in the **Federal Register** on December 11, 2013 (78 FR 75284). We received one comment in favor of the proposed special conditions as written.

Applicability

As discussed above, these special conditions are applicable to the Models BD–500–1A10 and BD–500–1A11 series airplanes. Should Bombardier Aerospace apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on two model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type

certification basis for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes.

Flight Envelope Protection—High-Speed Limiting

■ 1. In addition to § 25.143, the following requirements apply: Operation of the high-speed limiter during all routine and descent procedure flight must not impede normal attainment of speeds up to overspeed warning.

Issued in Renton, Washington, on April 22, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–13243 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2014–0301; Special Conditions No. 25–550–SC]

Special Conditions: The Boeing Company, Models 737–700, –700C, –800, –900ER, –7, –8, and –9 Series Airplanes; Airplane Electronic Systems Security Protection From Unauthorized External Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Condition; Request for Comments.

SUMMARY: These special conditions are issued for the Boeing Company Models 737–700, –700C, –800, –900ER, –7, –8, and –9 series airplanes. These airplanes will have novel or unusual design features associated with the architecture and connectivity capabilities of the airplanes' computer systems and networks, which may allow access to or by external computer systems and networks and may result in security vulnerabilities to the airplanes' systems. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is June 6, 2014. We must receive your comments by July 21, 2014.

ADDRESSES: Send comments identified by docket number FAA–2014–0301 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Varun Khanna, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1298; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On January 27, 2012, the Boeing Company applied for an amendment to Type Certificate No. A16WE to include new minor models, 737–7, –8, and –9. The Models 737–7, –8, and –9, which are derivatives of the 737–700, –800, –900ER currently approved under Type Certificate No. A16WE, are passenger series airplanes designed to substantially reduce fuel burn and community noise. In addition, the design will include a new CFM LEAP–1B engine with a 68.4-inch diameter fan, 8-inch longer nose gear to accommodate the larger engine, a relofted tailcone (which requires the elevator to be trimmed and the elevator tab to be relocated outboard to accommodate the new contours), new horizontal stabilizer strakelets, a retractable auxiliary power unit inlet door, fly-by-wire spoilers, strengthened flight deck bulkhead, and a new winglet design.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, The Boeing Company must show that the Models 737–700, –700C, –800, –900ER, –7, –8, and –9 series airplanes meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A16WE or the applicable regulations in effect on the date of application for the change to the type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' In addition, the certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain

adequate or appropriate safety standards for the 737–700, –700C, –800, –900ER, –7, –8, and –9 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

In addition to the applicable airworthiness regulations and special conditions, the 737–700, –700C, –800, –900ER, –7, –8, and –9 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The Boeing Models 737–700, –700C, –800, –900ER, –7, –8, and –9 series airplanes will incorporate the following novel or unusual design features: Digital systems architecture composed of several connected networks. This network architecture and network configuration may be used for or interfaced with a diverse set of functions, including:

- Flight safety related control, communication, and navigation systems (aircraft control domain);
- Operator business and administrative support (operator information domain); and
- Passenger information and entertainment systems (passenger entertainment domain), and the capability to allow access to or by external network sources.

Discussion

The proposed architecture and network configuration of the Models 737–700, –700C, –800, –900ER, –7, –8, and –9 series airplanes may allow increased connectivity to and access from external network sources and operations and maintenance networks to the aircraft control domain and operator information domain. The airplane control domain and operator information domain perform functions required for the safe operation and maintenance of the airplane. Previously these domains had very limited connectivity with external network sources.

The architecture and network configuration may allow the exploitation of network security vulnerabilities resulting in intentional or unintentional destruction, disruption, degradation, or exploitation of data, systems, and networks critical to the safety and maintenance of the airplane.

The existing regulations and guidance material did not anticipate these types of airplane system architectures. Furthermore, 14 CFR regulations and current system safety assessment policy and techniques do not address potential security vulnerabilities, which could be exploited by unauthorized access to airplane networks, data buses, and servers. Therefore, these special conditions and a means of compliance are proposed to ensure that the security (i.e., confidentiality, integrity, and availability) of airplane systems is not compromised by unauthorized wired or wireless electronic connections.

Applicability

As discussed above, these special conditions are applicable to the Models 737–700, –700C, –800, –900ER, –7, –8, and –9 series airplanes. Should The Boeing Company apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on certain model series of airplanes. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for The Boeing Company Models 737–700, –700C, –800, –900ER, –7, –8, and –9 series airplanes.

Airplane Electronic Systems Security Protection From Unauthorized External Access

1. The applicant must ensure that the airplanes' electronic systems are protected from access by unauthorized sources external to the airplane, including those possibly caused by maintenance activity.

2. The applicant must ensure that electronic system security threats are identified and assessed, and that effective electronic system security protection strategies are implemented to protect the airplane from all adverse impacts on safety, functionality, and continued airworthiness.

3. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post type certification modifications that may have an impact on the approved electronic system security safeguards.

Issued in Renton, Washington, on May 5, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–13244 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2014–0302; Notice No. 25–551–SC]

Special Conditions: The Boeing Company, Models 737–700, –700C, –800, –900ER, –7, –8, and –9 Series Airplanes; Isolation or Airplane Electronic System Security Protection From Unauthorized Internal Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions; Request for Comments.

SUMMARY: These special conditions are issued for Boeing Models 737–700, –700C, –800, –900ER, –7, –8, and –9 series airplanes. These airplanes will have a novel or unusual design feature associated with connectivity of the passenger service computer systems to the airplane critical systems and data networks. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is June 6, 2014. We must receive your comments by July 21, 2014.

ADDRESSES: Send comments identified by docket number FAA–2014–0302 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Varun Khanna, FAA, Airplane and Flight Crew Interface, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1298; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On January 27, 2012, The Boeing Company applied for an amendment to Type Certificate No. A16WE to include new minor models, 737–7, –8, and –9. The Models 737–7, –8, and –9, which are derivatives of the 737–700, –800, –900ER currently approved under Type Certificate No. A16WE, are passenger series airplanes designed to substantially reduce fuel burn and community noise. In addition, the design will include a new CFM LEAP–1B engine with a 68.4-inch diameter fan, 8-inch longer nose gear to accommodate the larger engine, a relofted tailcone (which requires the elevator to be trimmed and the elevator tab to be relocated outboard to accommodate the new contours), new horizontal stabilizer strakelets, a retractable auxiliary power unit (APU) inlet door, fly-by-wire spoilers, strengthened flight deck bulkhead, and a new winglet design.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, The Boeing Company must show that the Models 737–700, –700C, –800, –900ER, –7, –8, and –9 series airplanes meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A16WE or the applicable regulations in effect on the date of application for the change to the type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' In addition the certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the 737–700, –700C, –800, –900ER, –7, –8, and –9 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

In addition to the applicable airworthiness regulations and special conditions, the 737–700, –700C, –800, –900ER, –7, –8, and –9 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance

with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The Boeing Models 737–700, –700C, –800, –900ER, –7, –8, and –9 series airplanes will incorporate the following novel or unusual design features: Digital systems architecture composed of several connected networks. This network architecture and network configuration may be used for or interfaced with a diverse set of functions, including:

- Flight safety related control, communication, and navigation systems (aircraft control domain);
- Operation and administrative support (operator information services domain); and
- Passenger information and entertainment systems (passenger entertainment domain), and the capability to allow access to or by external network sources.

Discussion

The proposed integrated network configuration on the Models 737–700, –700C, –800, –900ER, –7, –8, and –9 may allow increased connectivity with external network sources and will have more interconnected networks and systems, such as passenger entertainment and information services, than previous 737 airplane models. This may allow the exploitation of network security vulnerabilities resulting in intentional or unintentional destruction, disruption, degradation, or exploitation of data and systems critical to the safety and maintenance of the airplane, which could result in unsafe conditions for the airplane and its occupants.

The existing regulations and guidance material did not anticipate these types of system architectures or access to airplane systems. Furthermore, 14 CFR regulations and current system safety assessment policy and techniques do not address potential security vulnerabilities that could be caused by unauthorized access to airplane data busses and servers. Therefore, these special conditions are issued to ensure that the security (i.e., confidentiality, integrity, and availability) of airplane systems are not compromised by unauthorized wired or wireless electronic connections between airplane operation systems and networks and the passenger domain.

Applicability

As discussed above, these special conditions are applicable to the Models 737–700, –700C, –800, –900ER, –7, –8, and –9 series airplanes. Should The Boeing Company apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on certain model series of airplanes. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for The Boeing Company Models 737–700, –700C, –800, –900ER, –7, –8, and –9 series airplanes.

Isolation or Airplane Electronic System Security Protection From Unauthorized Internal Access

1. The applicant must ensure that the design provides isolation from, or airplane electronic system security protection against, access by unauthorized sources internal to the airplane. The design must prevent inadvertent and malicious changes to, and all adverse impacts upon, airplane equipment, systems, networks, or other assets required for safe flight and operations.

2. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post type certification modifications that may have an impact on the approved electronic system security safeguards.

Issued in Renton, Washington, on May 5, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–13245 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 17

[Docket No. FDA–2014–N–0113]

Maximum Civil Money Penalty Amounts; Civil Money Penalty Complaints; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; Confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of June 18, 2014, for the direct final rule that appeared in the **Federal Register** of February 3, 2014. The direct final rule revises the regulations to update the table to adjust the preceding maximum civil penalty amounts for inflation as prescribed by the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA). The direct final rule also revises the regulations to amend the process for initiating certain civil money penalty (CMP) administrative actions. This document confirms the effective date of the direct final rule.

DATES: Effective date of the direct final rule published in the **Federal Register** of February 3, 2014 (79 FR 6088), confirmed: June 18, 2014.

FOR FURTHER INFORMATION CONTACT: Jarilyn Dupont, Office of Policy, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20903, 301–796–4830.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 3, 2014 (79 FR 6088), FDA published the direct final rule Maximum Civil Money Penalty Amounts; Civil Money Penalty Complaints. The direct final rule revises the table in 21 CFR 17.2 to adjust the preceding maximum CMP amounts for inflation as prescribed by FCPIAA. The adjusted CMPs have been updated to

account for the inflation as prescribed by FCPIAA. The direct final rule also revises 21 CFR 17.5(a) to provide authority for the Chief Counsel to delegate the responsibility for initiating a CMP administrative action against a tobacco retailer.

FDA also solicited comments concerning the changes for a 75-day period ending April 21, 2014, in a proposed rule that published in the **Federal Register** of February 3, 2014 (79 FR 6112). FDA stated that the effective date of the direct final rule would be June 18, 2014, 60 days after the end of the comment period, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comments.

Authority: Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 17 is amended. Accordingly, the amendments issued thereby are effective.

Dated: June 2, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–13165 Filed 6–5–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9667]

RIN 1545–BK00

Requirements for Taxpayers Filing Form 5472

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations on Form 5472, ''Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business.'' The final regulations affect certain 25-percent foreign-owned domestic corporations and certain foreign corporations that are engaged in a trade or business in the United States that are required to file Form 5472. Contemporaneously, new proposed regulations are being issued that would remove a current provision for timely filing of Form 5472 separately from an income tax return that is untimely filed. As a result, the proposed regulations would require Form 5472 to be filed in all cases only with the filer's income tax return for the taxable year by the due date (including extensions) of that return.

DATES: *Effective Date:* These regulations are effective on June 6, 2014.

Applicability Date: For dates of applicability, see §§ 1.6038A–1(n) and 1.6038A–2(h).

FOR FURTHER INFORMATION CONTACT: Anand Desai, (202) 317–6939 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On June 10, 2011, the IRS and the Treasury Department published temporary regulations and a notice of proposed rulemaking by cross-reference to the temporary regulations in the **Federal Register** (76 FR 33997, TD 9529, 2011–30 IRB 57; REG–101352–11, 76 FR 34019) (2011 regulations) under sections 6038A and 6038C of the Internal Revenue Code (Code). The 2011 regulations amended final regulations under § 1.6038A–2 to provide that duplicate filing of Form 5472 generally would no longer be required regardless of whether the filer files a paper or an electronic income tax return. As a result, the regulations' only remaining provision for filing a Form 5472 separately from the filer's income tax return applies to cases in which the filer's income tax return is not timely filed.

No comments were received on the 2011 regulations, and no public hearing was requested or held. Accordingly, this Treasury decision adopts the 2011 regulations without substantive change as final regulations and removes the corresponding temporary regulations.

However, contemporaneous with these final regulations, the IRS and the Treasury Department are proposing the removal of § 1.6038A–2(e), which provides for a filer to timely file a Form 5472 separately from the filer's income tax return if the income tax return is untimely filed. As a result, the proposed regulations would require that Form 5472 be filed in all cases only with the filer's income tax return for the taxable year by the due date (including extensions) of that return. For further information, see the proposed regulations set forth in the Proposed Rules section in this issue of the **Federal Register**.

Special Analyses

It has been determined that this final regulation is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13653. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Anand Desai, Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

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

■ **Par. 2.** Section 1.6038A–1 is amended by revising paragraph (n)(2) to read as follows:

§ 1.6038A–1 General requirements and definitions.

* * * * *

(n) * * *

(2) *Section 1.6038A–2.* Section 1.6038A–2 (relating to the requirement to file Form 5472) generally applies for taxable years beginning after July 10, 1989. However, § 1.6038A–2 as it applies to reporting corporations whose sole trade or business in the United States is a banking, financing, or similar business as defined in § 1.864–4(c)(5)(i) applies for taxable years beginning after December 10, 1990. Section 1.6038A–2(d) and (e) apply for taxable years ending on or after June 10, 2011. For taxable years ending before June 10, 2011, see § 1.6038A–2(d) and (e) as contained in 26 CFR part 1 revised as of April 1, 2011.

* * * * *

§ 1.6038A–1T [Removed]

■ **Par. 3.** Section 1.6038A–1T is removed.

■ **Par. 4.** Section 1.6038A–2 is amended by revising paragraphs (d) and (e) to read as follows:

§ 1.6038A–2 Requirement of return.

* * * * *

(d) *Time for filing returns.* A Form 5472 required under this section must be filed with the reporting corporation's income tax return for the taxable year by the due date (including extensions) of that return.

(e) *Untimely filed return.* If the reporting corporation's income tax return is untimely filed, Form 5472 nonetheless must be timely filed. When the reporting corporation's income tax return is ultimately filed, a copy of Form 5472 must be attached.

* * * * *

§ 1.6038A–2T [Removed]

■ **Par. 5.** Section 1.6038A–2T is removed.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: May 21, 2014.

Mark J. Mazur,

Assistant Secretary for the Treasury (Tax Policy).

[FR Doc. 2014–13255 Filed 6–5–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[SATS No. ND–053–FOR; Docket ID No. OSM–2012–0006; S1D1SSS08011000 SX066A00067F144S180110; S2D2SSS08011000SX066A00033F14 XS501520]

North Dakota Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are issuing a final decision on an amendment to the North Dakota regulatory program (the ''North Dakota program'') under the Surface Mining Control and Reclamation Act of 1977 (''SMCRA'' or ''the Act''). Our decision approves the amendment. North Dakota proposed changes to the North Dakota Administrative Code (NDAC) to address letter of credit provisions in the collateral bond rules under Section 69–5.2–12–04. The changes involve financial information and various notices that banks issuing a letter of credit must provide to the North Dakota Public Service Commission (hereinafter, the ''Commission'').

DATES: *Effective Date:* June 6, 2014.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Denver Field Division, Chief, Telephone: (307) 261–6550, Internet address: *jfleischman@OSMRE.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program
II. Submission of the Proposed Amendment
III. Office of Surface Mining Reclamation and Enforcement's (OSMRE's) Findings
IV. Summary and Disposition of Comments
V. OSMRE's Decision
VI. Procedural Determinations

I. Background on the North Dakota Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act . . .; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the North Dakota program on December 15, 1980. You can find background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval in the December 15, 1980, **Federal Register** (45 FR 82214). You can also find later actions concerning North Dakota's program and program amendments at 30 CFR 934.15, 934.16, and 934.30.

II. Submission of the Proposed Amendment

By letter dated February 2, 2012, North Dakota sent us an amendment to its program (SATS number: ND–053–FOR, Administrative Record Document ID. OSM–2012–0006–0002) under SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota submitted the amendment to include changes made at its own initiative.

North Dakota proposed to change the letter of credit provisions in its collateral bond rule at NDAC 69–5.2–12–04 which addresses the financial information that banks issuing a letter of credit must provide to the Commission. Specifically, North Dakota proposed to revise its rules by adding an option that allows banks to provide a certified copy of financial reports that are required by a Federal banking agency rather than submit a balance sheet that is certified by a certified public accountant (CPA). North Dakota also proposed a change that affects the provision requiring banks to give the Commission notice of actions alleging insolvency or bankruptcy. North Dakota is proposing these changes both in order to avoid conflict with Federal and State banking regulations and to assist banks that may have difficulty submitting CPA certified balance sheets.

We announced receipt of the proposed amendment in the April 25, 2012, **Federal Register** (Vol. 77, No. 80 FR page number 24661). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record Docket ID OSM–2012–0006).

We did not hold a public hearing or meeting because no one requested one. The public comment period ended on May 25, 2012. We did not receive any comments.

III. OSMRE's Findings

30 CFR 732.17(h)(10) requires that State program amendments meet the criteria for approval of State programs set forth in 30 CFR 732.15, including that the State's laws and regulations are in accordance with the provisions of the Act and consistent with the requirements of 30 CFR Part 700. In 30 CFR 730.5, OSMRE defines ''consistent with'' and ''in accordance with'' to mean (a) with regard to SMCRA, the State laws and regulations are no less stringent than, meet the minimum requirements of, and include all applicable provisions of the Act and (b) with regard to the Federal regulations, the State laws and regulations are no less effective than the Federal regulations in meeting the requirements of SMCRA.

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below.

A. Revisions to North Dakota's Rules That Are the Same as or Similar to the Corresponding Provisions of the Federal Regulations

North Dakota proposed changes to existing language in subsections (d) and (f) of NDAC Section 69–05.2–12–04. The proposed changes include additional conditions that banks must meet in

order for the Commission to approve a coal operator's collateral bond pledging a letter of credit. The proposed rule changes are intended to ensure that banks issuing letters of credit to the North Dakota Public Service Commission (hereinafter, ''the Commission'') maintain a certain degree of fiscal health and provide notice to the Commission and permittee of insolvency, bankruptcy, or regulatory requirement violations.

1. Performance Bond—Collateral Bond, at NDAC Sections 69–05.2–12–04(2)(d) and (f)

North Dakota proposed to revise NDAC Section 69–05.2–12–04(2)(d), which deals with notifications of the fiscal health of banks that issue letters of credit to the Commission. As previously written, the rules required that letters of credit submitted to the Commission be accompanied by a balance sheet and that updated balance sheets must be submitted regularly every year. North Dakota's proposed rule change provides banks with an alternative to submit certified copies of financial reports that are already required under Federal banking regulations. The Federal regulations governing collateral bonds pledging letters of credit are found at 30 CFR 800.21(b). The currently-approved State rules provide specific conditions for letters of credit that were found to be no less effective than Federal regulations [69 FR 2663]. Similarly, the proposed revision to NDAC 69–05.2–12–04(2)(d), although relaxing currently-approved State requirements, adds specificity to Federal requirements. Therefore, we find that the proposed change to NDAC 69–05.2–12–04(2)(d) is no less effective than the Federal regulations. Accordingly, we approve it.

North Dakota also proposed to revise NDAC Section 69–05.2–12–04(2)(f), which states that banks shall give prompt notice to the permittee and the Commission of notices received or actions filed alleging insolvency, bankruptcy, or banking regulatory requirement violations that could result in suspension or revocation of the bank's charter or license to do business. The proposed amendment contains language that limits the amount of information provided in the notice to what is permitted by State and Federal banking laws. North Dakota proposed this rule change to avoid conflict with various Federal and State banking regulations. The counterpart Federal regulations to subsection (f) are found at 30 CFR 800.16(e). 30 CFR 800.16(e)(1) requires that the bond shall ''provide a mechanism'' for a bank to notify the regulatory authority, or in this case the Commission, of actions filed alleging insolvency, bankruptcy, or banking regulatory requirement violations that could result in suspension or revocation of the bank's charter or license to do business. Furthermore, 30 CFR 800.16(e)(2) requires that the permitee shall promptly notify the regulatory authority of the aforementioned actions. Since North Dakota's proposed rule change does not weaken the requirement that a ''mechanism'' exists for banks to notify the Commission of alleged insolvency, bankruptcy, or banking regulatory requirement violations, we find that the proposed change to NDAC 69–05.2–12–04(2)(f) is no less effective than the counterpart Federal regulations at 30 CFR 800.16(e) and we approve it.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record Document ID No. OSM–2012–0006–0002), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various State and Federal agencies with an actual or potential interest in the North Dakota program (Administrative Record Docket ID No. OSM–2012–0006).

We received responses from both the Bureau of Land Management (BLM) and the Mine Safety and Health Administration (MSHA). BLM stated in a letter dated February 17, 2012, that they had no comments on North Dakota Amendment XXXIX (Administrative Record Document ID No. OSM–2012–0006–0004). MSHA stated in a letter dated March 5, 2012, that they concurred with the proposed revisions and had no further comment (Administrative Record Document ID No. OSM–2012–0006–0006).

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) and the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that North Dakota proposed to make in this amendment pertain to air or water quality standards. Although OSM did not ask EPA to concur on the amendment, we did request EPA to comment on the amendment (Administrative Record ID No. OSM–2012–0006–0005). EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On February 7, 2012, we requested comments on North Dakota's amendment (Administrative Record Document ID No.OSM–2012–0006–0005), but neither responded to our request.

V. OSMRE's Decision

Based on the above finding, we approve North Dakota's February 1, 2012 amendment.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 934, which codify decisions concerning the North Dakota program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and

the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian Tribes and have determined that the rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. The rule does not involve or affect Indian Tribes in any way.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C) *et seq*).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

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

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded Mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 12, 2014.

Allen D. Klein,

Director, Western Region.

For the reasons set out in the preamble, 30 CFR part 934 is amended as set forth below:

PART 934—NORTH DAKOTA

■ 1. The authority citation for part 934 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 934.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 934.15 Approval of North Dakota regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* * *
February 1, 2012	June 6, 2014	NDAC 69–5.2–12–04.

[FR Doc. 2014–13293 Filed 6–5–14; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

[SATS No. UT–049–FOR; Docket ID No. OSM–2012–0015; S1D1SSS08011000 SX066A00067F144S180110; S2D2SSS08011000SX066A00033F14 XS501520]

Utah Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; Approval of Amendment.

SUMMARY: We are approving an amendment to the Utah regulatory program (the ''Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (''SMCRA'' or ''the Act''). Utah proposed revisions to and additions of rules about ownership and control. Utah revised its program to be consistent with the corresponding Federal regulations.

DATES: *Effective Date:* June 6, 2014.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Chief, Denver Field Division, Telephone: 307–261–6550, Internet address: *jfleischman@OSMRE.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program
II. Submission of the Proposed Amendment
III. Office of Surface Mining Reclamation and Enforcement's (OSM's) Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Utah Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act . . . and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Utah program on January 21, 1981. You can find background information on the Utah program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Utah program in the January 21, 1981, **Federal Register** (46 FR 5899). You can also find later actions concerning Utah's program and program amendments at 30 CFR 944.15 and 944.30.

II. Submission of the Proposed Amendment

By letter dated June 25, 2012, Utah sent us an amendment to its program (Administrative Record Number OSM–2012–0015–0002) under SMCRA (30 U.S.C. 1201 *et seq.*). Utah sent the amendment in response to an October 2, 2009 letter (Administrative Record No. OSM–2012–0015–0003) we sent to Utah in accordance with 30 CFR 732.17(c).

We announced receipt of the proposed amendment in the September 5, 2012 **Federal Register** (77 FR 54491). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record No. OSM–2012–0015–0001). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on October 5, 2012. We received comments from three Federal agencies.

By letter dated November 2, 2012, Utah sent us a supplemental to the June 25, 2012 amendment proposal (Administrative Record No. OSM–2012–0015–0008). Utah sent the supplemental amendment to address two minor revisions that were inadvertently omitted from the June 25th submittal.

We announced receipt of the supplemental proposed amendment in the December 12, 2012 **Federal Register** (77 FR 73966). In the same document, we reopened the public comment period on the amendment's adequacy (Administrative Record No. OSM–2012–0015–0010). That public comment period ended on December 27, 2012. We did not receive any additional comments during the second comment period.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment.

Revisions to Utah's Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

Utah proposed revisions to the following rules containing language that is the same as or similar to the corresponding sections of the Federal regulations.

R643–874–160 corresponding to 30 CFR 874.16, AML contractor eligibility (general);

R643–875–200 corresponding to 30 CFR 875.20, AML contractor eligibility (noncoal);

R645–100–200 corresponding to 30 CFR 701.5, Definitions of ''Applicant/Violator System,'' ''Control or Controller,'' ''Knowingly'' (deleted), ''Knowing or Knowingly,'' '' 'Owned or controlled' and 'Owns or Controls' '' (deleted), ''Own, Owner, or Ownership,'' ''Transfer, Assignment or Sale of Permit Rights,'' ''Violation,'' ''Violation, Failure, or Refusal,'' ''Violation Notice,'' ''Willful or Willfully,'' and ''Willful Violation;''

R645–300–132 corresponding to 30 CFR 773.8, Review of compliance and entry of information into the AVS;

R645–300–132.100 corresponding to 30 CFR 773.9 through 773.11, Review of applicant, operator and ownership and control information, permit history, and compliance history;

R645–300–132.120 through –132.121 corresponding to 30 CFR 773.14(3) & (4), Challenging ownership and control listings;

R645–300–132.150 through –132.150.11 corresponding to 30 CFR 773.25 through 773.28, Challenging ownership and control listings;

R645–300–132.200 corresponding to 30 CFR 773.14, Provisionally issued permits;

R645–300–132.400 corresponding to 30 CFR 773.12, Permit eligibility determinations;

R645–300–132.500 corresponding to 30 CFR 773.13, Unanticipated events or conditions at remining sites;

R645–300–133 corresponding to 30 CFR 773.15, Written findings for permit application approval;

R645–300–148 corresponding to 30 CFR 774.12(c), Updating ownership and control information;

R645–300–160 through –162 corresponding to 30 CFR 773.21, Improvidently issued permits;

R645–300–164 corresponding to 30 CFR 773.22 and 773.23, Improvidently issued permit rescission procedures;

R645–300–171 through –173 corresponding to 30 CFR 778.9, Certifying and updating permit application information;

R645–300–180 though –183.2 corresponding to 30 CFR 774.11, Post-permit issuance requirements based on ownership and control information;

R645–301–111 corresponding to 30 CFR 778.11, Minimum requirements for legal, financial, compliance, and related information;

R645–301–112.200 through –112.420 corresponding to 30 CFR 778.11 and

778.12, Providing permit history information;

R645–301–113 corresponding to 30 CFR 778.14, Providing violation information;

R645–302–240 corresponding to 30 CFR 785.25, Remining;

R645–303–310 corresponding to 30 CFR 774.17(a), Transfer, assignment, or sale of permit rights;

R645–400–319 corresponding to 30 CFR 843.11, Notices in the event of a cessation order; and

R645–403 corresponding to 30 CFR 847; Alternative enforcement.

Utah revised the listed provisions to closely mirror Federal counterpart language and requirements. These revisions encompass all required program amendments identified through our October 2, 2009 letter. Because the proposed rules contain language that is the same as or similar to the corresponding Federal regulations, we find that they are no less effective than the corresponding Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record Document ID No. OSM–2012–0015–0001), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Utah program (Administrative Record Document ID No. OSM–2012–00015–0007).

On August 1, 2012 we received an email comment from the United States Department of Agriculture Forest Service, Intermountain Region (Administrative Record No. OSM–2012–0015–0006). The Forest Service stated that it did not have specific comments on the proposed amendment.

By letter dated August 3, 2012 we received a comment from the Bureau of Land Management (BLM) (Administrative Record No. OSM–2012–0015–0004). The BLM stated that the changes appear to provide clarification of the definition of responsible parties and certain procedural steps. The BLM understands that the changes will continue to be implemented by the Utah Coal Regulatory Program. We agree with the BLM comments and are approving the amendment.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Utah proposed to make in this amendment pertains to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from EPA (Administrative Record Document ID No. OSM–2012–0015–0007. EPA responded on August 7, 2012, by stating it has no substantive comments on the proposed amendment (Administrative Record Document ID No. OSM–2012–0015–0005).

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On July 2, 2012 we requested comments on Utah's amendment (Administrative Record Document ID No. OSM–2012–0015–0007), but neither responded to our request.

V. OSM's Decision

Based on the above findings, we approve Utah's June 25, 2012 amendment as supplemented November 2, 2012.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 944, which codify decisions concerning the Utah program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

Effect of OSM's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any change of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to approved State programs that are not approved by OSM. In the oversight of the Utah program, we will recognize only the statutes, regulations and other materials we have approved, together with any consistent implementing policies, directives and other materials. We will require Utah to enforce only approved provisions.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian Tribes and have determined that the rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. The rule does not involve or affect Indian Tribes in any way.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C) *et seq*).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*.).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

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

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 25, 2014.

Allen D. Klein,

Director, Western Region.

Editorial Note: This document was received by the Office of the Federal Register on June 3, 2014.

For the reasons set out in the preamble, 30 CFR part 944 is amended as set forth below:

PART 944—UTAH

■ 1. The authority citation for part 944 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 944.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 944.15 Approval of Utah regulatory program amendments

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
June 25, 2012	June 6, 2014	R643–874–160; –875–200; R645–100–200 (Definitions); R645–300–132 (et seq); –133.1000; –148.100; –161; –162 (et seq); 164 (et seq); –171 through –185.700; R645–301–111.400 through –112.420; –113.100 through –113.120; –113.300; –113.340 through –113.360; R645–302–240 through –242; –245.210; –245.300; –245.410 through –245.420; R645–303–310; R645–400–319; R645–403 (et seq).

[FR Doc. 2014–13294 Filed 6–5–14; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

[Docket ID ED–2014–OPE–0037; CFDA Number 84.229A]

Final Priority; Language Resource Centers Program

AGENCY: Office of Postsecondary Education (OPE), Department of Education.

ACTION: Final Priority.

SUMMARY: The Acting Assistant Secretary for Postsecondary Education announces a priority under the Language Resource Centers (LRC) Program administered by the International and Foreign Language Education Office. The Acting Assistant Secretary may use this priority for competitions in fiscal year (FY) 2014 and later years. We take this action to focus Federal financial assistance on an identified national need. We intend the priority to make international education opportunities available to more American students.

DATES: *Effective Date:* This priority is effective July 7, 2014.

FOR FURTHER INFORMATION CONTACT: Michelle Guilfoil. Telephone: (202) 502–7625 or by email: *michelle.guilfoil@ed.gov.*

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

SUPPLEMENTARY INFORMATION:

Purpose of Program: The LRC Program provides grants to institutions of higher education or consortia of these institutions for establishing, strengthening, and operating centers that serve as resources for improving the Nation's capacity for teaching and learning foreign languages through teacher training, research, materials development, and dissemination projects.

Program Authority: 20 U.S.C. 1123.

Applicable Program Regulations: 34 CFR parts 655 and 669.

We published a notice of proposed priority for this program in the **Federal Register** on March 18, 2014 (79 FR 15074). That notice contained background information and our reasons for proposing this particular priority.

There are differences between the proposed priority and this final priority as discussed in the *Analysis of Comments and Changes* section elsewhere in this notice.

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

Generally, we do not address technical and other minor changes.

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

Comment: A commenter endorsed the proposed priorities and expressed appreciation for the Department of Education's efforts to facilitate stronger participation of MSIs. In addition, the commenter urged us to use these priorities as absolute or competitive preference priorities.

Discussion: We appreciate the commenter's support. However, it is our practice to specify the priority types for each competition in the notice inviting applications, not in an NFP.

Changes: None.

Comment: One commenter suggested that we include a priority for applications that include collaboration activities with MSIs to enhance access to international activities and foreign language learning.

Discussion: We agree with the commenter and believe that the final priority, consistent with the proposed priority, clearly accomplishes this goal.

Change: None.

Comment: One commenter suggested that it would be helpful if we provide a list of institutions eligible under Title III, part A; Title III, part B; and Title V of the Higher Education Act of 1965, as amended (HEA).

Discussion: We agree that making this information readily available to applicants will help them in addressing and meeting this priority.

Change: None. We will provide the information on the institutions that currently meet this definition in the **Federal Register** notice inviting applications (NIA).

Comment: One commenter recommended that we remove the singular modifier before minority-serving institutions (MSIs) and before community college to clarify that collaborative activities may be proposed with more than one MSI or more than one community college.

Discussion: We agree with the commenter's suggestion and are making this change to ensure we do not limit the number of entities that are able to collaborate under this priority.

Change: We have revised this priority to make it clear that an institution can collaborate with multiple MSIs or community colleges.

Comment: One commenter encouraged the Department to consider as broad a definition of MSI as possible so as to provide the greatest opportunities for applicant institutions to positively influence students and instructors alike at these underserved institutions.

Discussion: We believe that the definition of an MSI to be used with this priority will serve a wide range of institutions and fulfill the Department's intention of addressing the gap in the types of institutions, faculty, and students that have historically benefitted from the instruction, training, and outreach available at LRCs. Institutions that are eligible to receive assistance under Title III, part A; Title III part B; and Title V of the HEA include MSIs, Historically Black Colleges and Universities (HBCUs), predominately black institutions, Hispanic-serving institutions, and tribal colleges, among others. This range of institutional types provides sufficient options to language resource center institutions in terms of collaboration. Considering, too, that community colleges are included in this priority, there is flexibility, opportunity, and latitude for the Language Resource Center institutions to meet the intended outcomes of this priority. We, therefore, do not agree that the definition of an MSI for the purposes of this proposed priority is too narrow.

Change: None.

Comment: None.

Discussion: Based on internal deliberation, and consistent with a change made to a similar priority for the National Resource Centers program in response to a comment, we have revised the final priority to allow an applicant that itself is an MSI or community college to propose to meet the priority by conducting intra-campus collaborative activities instead of, or in addition to, collaborative activities with other MSIs or community colleges. An example of an intra-campus collaborative activity would be a project involving the faculty in the Department of Social Sciences and the Yoruba language instructors to develop a language across the curriculum course about human rights issues in Africa.

Changes: We have revised the priority language to permit institutions that are MSIs or community colleges to propose intra-campus collaborative activities instead of, or in addition to, collaborative activities with other MSIs or community colleges.

Final Priority

Final Priority

Applications that propose significant and sustained collaborative activities with one or more Minority-Serving Institutions (MSIs) (as defined in this notice) or with one or more community colleges (as defined in this notice).

These activities must be designed to incorporate foreign languages into the curriculum at the MSI(s) or community college(s), and to improve foreign language instruction at the MSI(s) or community college(s). If an applicant institution is an MSI or a community college (as defined in this notice), that institution can meet the intent of this priority by proposing intra-campus collaborative activities instead of, or in addition to, collaborative activities with other MSIs and/or community colleges.

For the purpose of this priority:

Community college means an institution that meets the definition in section 312(f) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1058(f)); or an institution of higher education (as defined in section 101 of the HEA (20 U.S.C. 1001)) that awards degrees and certificates, more than 50 percent of which are not bachelor's degrees (or an equivalent) or master's, professional, or other advanced degrees.

Minority-Serving Institution means an institution that is eligible to receive assistance under sections 316 through 320 of part A of Title III, under part B of Title III, or under Title V of the HEA.

Types of Priorities

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

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

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

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

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

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

Executive Orders 12866 and 13563

Regulatory Impact Analysis

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

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

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

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dated: June 3, 2014.

Lynn B. Mahaffie,

Senior Director, Policy Coordination, Development, and Accreditation Service, delegated the authority to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

[FR Doc. 2014–13208 Filed 6–5–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–A082

Burial Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations governing entitlement to monetary burial benefits, which include burial allowances for service-connected and non-service-connected deaths, a plot or interment allowance, and reimbursement of transportation expenses. As amended, the regulations establish rules to support VA's automated payment of burial allowances to surviving spouses, conversion to flat-rate burial and plot or interment allowances that are equal to the maximum benefit authorized by law, and priority of payment to non-spouse survivors. The purpose of these regulations is to streamline the program and make it easier for veterans and their families to receive the right benefits and meet their expectations for quality, timeliness, and responsiveness.

DATES: *Effective Date:* The final rule is effective July 7, 2014.

Applicability Date: This final rule applies to claims for burial benefits pending on or after July 7, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Damali Mason, Pension and Fiduciary Service (21PF), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (202) 632–8852. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on December 18, 2013 (78 FR 76574), VA proposed revising its regulations governing eligibility for and payment of monetary burial benefits. The 30-day public comment period ended on January 17, 2014. VA received nine comments from interested individuals and organizations. The comments generally concerned priority of payments and who is a proper claimant for burial benefits. The comments are discussed below. Based on the rationale described in this document and in the notice of proposed rulemaking (NPRM), VA adopts the proposed rule as revised in this document.

Section 3.1700—Types of VA Burial Benefits

In proposed § 3.1700(b), we defined ''burial'' for purposes of describing the types of services that VA has authority to pay for as a burial benefit. VA liberally defined burial as including, but not limited to, all legal methods for disposing of a deceased person's remains. One commenter recommended that VA include alkaline hydrolysis within the proposed definition of burial. According to the commenter, alkaline hydrolysis is a water-based dissolution process for human remains that uses alkaline chemicals to accelerate natural decomposition. To the extent that alkaline hydrolysis is a lawful method for disposing of human remains in a particular State, the broad language in proposed § 3.1700(b), ''all the legal methods,'' would necessarily include this method of disposition in VA's definition of burial. Because alkaline hydrolysis, where lawful, is a service that VA would pay for as a burial benefit under the language of proposed § 3.1700(b), we make no change to the proposed rule because it is unnecessary.

One commenter supported the cross-references in proposed § 3.1700(c) to other benefits and services related to memorialization or interment because they reflect the options available to families. The commenter also approved of the specific reference to both ''memorialization'' and ''interment,'' which are two distinct concepts, as discussed in the preamble of the proposed rule. VA appreciates the commenter's support for these changes.

Section 3.1702—Persons Who May Receive Burial Benefits; Priority of Payments

Under 38 CFR 3.1601, VA accepted a claim for burial benefits from the funeral director, any person who used his or her funds to pay burial or funeral expenses, or the executor or administrator of the estate of the veteran. Those rules did not allow VA to automate or expedite the payment of these small, one-time benefit payments to survivors who generally have an immediate need for supplemental financial assistance after the veteran's death. To facilitate efficient processing of claims, we proposed in§ 3.1702(a) to automate certain payments to surviving spouses based upon information in VA systems as a first priority and in § 3.1702(b) to establish a priority of payments for other eligible individuals.

We received several comments regarding the payment priority in proposed § 3.1702, whereby VA would automatically pay the burial allowance to an eligible surviving spouse in conjunction with the month-of-death benefit in 38 CFR 3.20, without the need for a separate claim, and regardless of a claim for the same benefit made by other claimants. If there were no surviving spouse, child, or parent, we stated that VA would pay an executor or administrator of the veteran's estate based upon the executor's or administrator's claim, or in the case of an unclaimed veteran, a funeral service provider based upon the provider's claim. As a result of this revised priority of payment, VA would no longer prioritize payment to funeral directors or other service providers.

One commenter stated that benefits should not be paid to funeral homes and recommended that VA pay burial benefits directly to beneficiaries for use in paying for the burial. The commenter went on to state that, ''once the process is automated and simplified, funeral homes will be natural beneficiaries of faster benefit payment.'' Another commenter stated that the benefit

''should be paid upfront so the family can use it right away.''

Two commenters, both funeral service trade and business associations, advocated that VA rewrite § 3.1702 in order to prioritize payment to funeral service providers. The commenters recommended that funeral homes be given priority because they are the actual providers of burial services. One of the trade groups suggested an alternate approach whereby VA would first pay burial providers where services have been rendered or previously contracted. Both commenters reasoned that proposed § 3.1702 would further delay funeral service providers being paid for the goods and services they have already provided. VA disagrees.

As we mentioned in the NPRM, the priority of payment provisions will enable VA to automatically pay annually the basic burial allowance ($300 or $2,000) to approximately 62,000 eligible surviving spouses shortly after being notified of a veteran's death. In order to establish an automatic payment process, VA needs to use existing data of record, which would be a veteran's dependent information. Although this policy change will reduce those instances in which a funeral service provider will be a proper claimant for VA burial benefits, it will ultimately place the survivors and estates of deceased veterans in a better financial position to pay funeral service providers in a timely manner. VA also notes that its monetary burial benefits generally do not cover the entire cost of a burial and funeral, which means that funeral service providers' current business model already includes collection of charges from survivors and other individuals who pay for the services. Further, the NPRM and effective date provisions of this final rule provide service providers with notice that they will no longer be afforded priority of payment and they may change their business practices accordingly. Finally, in cases where the deceased veteran has neither survivors nor an estate, such as when a deceased veteran's remains are unclaimed, § 3.1702(b)(3) provides that the person or entity that provided burial services is a proper claimant. In those circumstances, if a funeral service provider incurred costs for the funeral and burial of the remains of an unclaimed and intestate veteran, VA would pay that funeral service provider as a proper claimant. Therefore, we make no changes to § 3.1702 based on comments regarding priority of payment.

As to a comment that VA should permit the assignment of benefits by funeral homes to third-party providers, federal law precludes assignment of VA benefits. Section 5301(a)(1) of title 38, United States Code, provides in part that ''[p]ayments of benefits due or to become due under any law administered by the Secretary [of Veterans Affairs] shall not be assignable except to the extent specifically authorized by law.'' No statutory authority currently exists permitting the assignment of VA burial benefits. Accordingly, VA makes no change based on this comment.

As to one commenter's concerns about the timeliness of reimbursement for burial services already provided, VA anticipates that the proposed rules as a whole will increase the timeliness of all burial claims by reducing the evidentiary requirements for deciding all claims pending on the effective date of the final rule. Under proposed § 3.1703(b), apart from proof of death and a claim filed on a VA form, VA will generally require from a claimant only a statement that he/she incurred burial, plot or interment, or transportation costs rather than the itemized receipts and bills required under the current rule. VA will apply these reduced evidentiary requirements to all claims pending on the effective date of the final rule, which will decrease processing time to the benefit of all claimants for monetary burial benefits. VA makes no change based on this comment.

One commenter recommended that VA recognize all legal marriages for purposes of burial benefits and urged VA to incorporate in § 3.1702 ''a place of celebration rule'' for burial benefits only. Citing language in the NPRM that ''[t]he law provides VA with discretion to prescribe who may be properly paid burial benefits,'' the commenter asserted that VA's burial statutes do not restrict nor require payment to a specific person or group but rather to ''such person as the Secretary prescribes.'' Although sections 101 and 103 of title 38, United States Code, limit the definition of the term ''spouse,'' the commenter asserts that the broad authority in section 2302 ''permits a more expansive determination of eligible recipients here.'' The commenter also noted that a place of celebration rule would be consistent with other definitions adopted by other agencies following the Supreme Court's decision in *United States* v. *Windsor,* No. 12–307, 133 S. Ct. 2675 (2013).

The same commenter also recommended that VA further revise proposed § 3.1702(b)(1) to allow living veterans to designate any beneficiary of their choice for burial benefits. By permitting designation of such a beneficiary, the commenter states that VA would enable veterans to appoint a representative that ''more closely matches the reality of their relational ties.''

The same commenter recommended that VA revise proposed § 3.1702(b) to include a ''legally recognized domestic partner or civil union partner.'' According to the commenter, states such as Colorado, Oregon and Nevada do not allow same-sex marriages, but do recognize civil unions or domestic partnerships. The commenter asserts that VA can, with minor revisions to § 3.1702(b), permit payment of burial benefits to a deceased veteran's survivor from a civil union or domestic partnership.

Current section 101(3) and (31) of title 38, U.S.C., limits the definitions of ''surviving spouse'' and ''spouse'' for purposes of title 38 to only a person of the opposite sex of the veteran. The language in these provisions is substantively identical to the language in section 3 of the Defense of Marriage Act (DOMA), 1 U.S.C. 7, which the Supreme Court in *Windsor* declared to be unconstitutional because it discriminates against legally-married, same-sex couples. On September 4, 2013, the United States Attorney General informed Congress that the President had directed the Executive Branch to cease enforcement of sections 101(3) and (31) of title 38, U.S.C., to the extent that those provisions preclude the recognition of legally-valid marriages of same-sex couples. Pursuant to the President's direction, VA is no longer enforcing the section 101(3) and (31) provisions to the extent that they require a ''spouse'' or a ''surviving spouse'' to be a person of the opposite sex. Unlike most other Federal agencies, VA is required by statute to use a place-of-residency rule to determine whether a veteran's marriage is recognized for the purpose of veterans' benefits. Specifically, 38 U.S.C. 103(c) requires that ''[i]n determining whether or not a person is or was the spouse of a veteran, their marriage shall be proven as valid for the purposes of all laws administered by the Secretary according to the law of the place where the parties resided at the time of the marriage or the law of the place where the parties resided when the right to benefits accrued.'' Thus, VA would recognize a surviving spouse, including a same-sex surviving spouse, whose marriage to a veteran is recognized under the section 103(c) provision. VA is working with the Department of Justice to address this statutory provision in light of recent legal developments.

As explained previously, in order to establish an automatic payment process, VA needs to use existing data of record, which would be a veteran's spouse of record. To make automatic payments to any other individual would require VA to create a pre-death designation process as suggested by the commenter. The commenter's proposed pre-death designation of burial benefits would complicate rather than simplify and streamline adjudication of these benefits. To implement the suggestion would require that VA establish and maintain a process for documenting a pre-death benefits designation and, in the case of a conflict, for adjudicating a deceased veteran's designation of beneficiary. In the context of a program that makes, on average in a particular year, over 139,000 relatively small one-time payments, the burden associated with establishing and maintaining such a process is inconsistent with the purpose of this regulation.

With respect to the commenter's suggestion to include individuals in relationships that are recognized under state law but not recognized by VA under section 103(c), such as domestic partnerships, civil unions, and other formal relationships, within the priority of payment list under § 3.1702(b), we agree with the commenter that VA has authority under section 2302 to expand the class of eligible recipients. Accordingly, to clarify that we do not intend to exclude individuals who had meaningful relationships with veterans but do not meet the requirements of section 103(c), we have revised § 3.1702(b) to also prescribe payment of burial benefits to the survivor of a legal union between the deceased veteran and the survivor that is not otherwise covered by § 3.1702(b)(1)(i) regarding surviving spouses. We define ''legal union'' to mean a formal relationship between the decedent and the survivor that existed on the date of the veteran's death, was recognized under the law of the State in which the couple formalized the relationship, and was evidenced by the State's issuance of documentation memorializing the relationship.

Consistent with the goal of streamlining adjudication, we have also revised the rule to provide that, except for automatic payments to surviving spouses under § 3.1702(a), which take precedence over all other categories of individuals, VA will pay the first-to-file of the individuals listed in § 3.1702(b). In the proposed rule, the first-to-file rule applied only within a specific priority category. By implementing a first-to-file rule across categories of individuals, the individual who takes initiative to file the claim and certify that he or she incurred burial, plot or interment, or transportation costs of the veteran (see § 3.1703(b)(1)(iii)), will be paid. In addition, such a rule will aid in streamlining adjudication because when VA receives a claim VA will not need to determine whether any individuals in a higher priority group exist.

In the course of reviewing the priority of payments under § 3.1702(b), we noticed that the use of the term ''child'' would not include an adult child of a deceased veteran given the statutory definition of ''child'' at 38 U.S.C. 101(4), which includes only minor children, children who became permanently incapable of self-support before the age of eighteen, or children under the age of twenty-three if pursuing a course of instruction at an approved educational institution. Therefore, we add the phrase ''regardless of age,'' after the word ''child'' in § 3.1702(b)(1)(ii).

Finally, regarding the priority provisions in § 3.1702(b), VA does not intend to apply the provisions to invalidate claims that are pending on the effective date of this final rule, such as those that VA received from funeral homes. Accordingly, we revise paragraphs (a) and (b) to make it clear that automatic payments to surviving spouses and the priority of payments provision apply to claims VA receives on or after the effective date of the final rule, July 7, 2014. In addition, we revise § 3.1702 to add paragraph (c), which, with two minor reference changes, restates current § 3.1601(a)(1) and (a)(2) for claims VA received before July 7, 2014.

Finally, regarding § 3.1702, a commenter pointed out that the proposed regulation did not expressly address the possibility of a surviving spouse receiving an automatic non-service-connected burial allowance under § 3.1702(a) but later establishing eligibility for the more generous service-connected burial allowance provided under § 3.1704. To remedy this, the commenter recommended that VA insert clarifying language in § 3.1702(a). VA analyzed available data prior to initiating this rulemaking and determined that the largest portion of deaths that are ultimately determined to be service-connected, are those in which the Veteran had a total service-connected disability rating at the time of death. The surviving spouses of those Veterans will receive the automated service-connected burial allowance payment. In proposing this regulation, it was VA's intent that a surviving spouse who received an automatic non-service-connected burial allowance could claim, and if eligible receive, the difference between the non-service-connected and the service-connected burial allowances. We agree with the commenter and revise § 3.1702(a) to include a reference to ''the service-connected burial allowance under § 3.1704''.

Section 3.1703—Claims for Burial Benefits

In proposed § 3.1703(a)(2), we specified that claims for the non-service connected burial allowance based on a corrected character of discharge must be filed within two years of the date that the service department corrected the discharge record. One commenter expressed support for VA's decision to provide burial payments to survivors of veterans whose character of discharge had changed. VA makes no change based on this comment.

Section 3.1707—Plot or Interment Allowance for Burial in a State Veterans or Other Cemetery

One commenter, citing preamble language from the NPRM describing the additional State plot or interment allowances VA pays based on service-connected death, suggested that VA modify proposed § 3.1707 and § 3.1704(c)(2) (referring to § 3.1707(a)) to permit VA to pay tribal cemeteries the plot or interment allowance when veterans eligible for burial in a national cemetery are buried in tribal cemeteries. Proposed § 3.1707(c) implements 38 U.S.C. 2303(b)(2), which provides for a plot or interment allowance for burials in other than State veterans cemeteries. This would include otherwise eligible burials in tribal cemeteries. Proposed § 3.1704 implements 38 U.S.C. 2307, which specifically provides that payments of service-connected death burial and funeral expenses under that section are ''in lieu of'' the plot or interment allowance for burial in other than a State veterans cemetery under 38 U.S.C. 2303(b)(2). However, as expressed in proposed § 3.1704(c)(2), VA has authority to pay the plot or interment allowance for burial in a State cemetery under 38 U.S.C. 2303(b)(1). For this reason, proposed § 3.1704(c)(2) accurately reflects the statutory authority found in 38 U.S.C. 2307. Therefore, we make no changes based on this comment.

One commenter recommended that VA rewrite § 3.1707(b)(3)(ii) because paragraphs (A) and (B) appear to grant eligibility for plot or interment allowance based on reserve component service on a less stringent basis than National Cemetery Administration (NCA) Directive 3210/1, ''Eligibility Requirements,'' which provides guidance for determining eligibility for

burial in a VA national cemetery as authorized under 38 U.S.C. 2402. The commenter misreads the proposed rule. VA derived § 3.1707(b)(3)(ii)(A) and (B) from current 38 CFR 3.1604(d)(1)(ii), which it published in 2001 (66 FR 48558, 48559) to implement section 333 of Public Law 106–419, the Veterans Benefits and Health Care Improvement Act of 2000 (the Act). The allowance under 38 U.S.C. 2303(b) was previously payable only if the cemetery, or section of the cemetery, was used solely for the interment of persons who were eligible for burial in a national cemetery. Section 333 of the Act amended 38 U.S.C. 2303(b) to include cemeteries, or sections of cemeteries, that are also used for the interment of persons who were members of a reserve component of the Armed Forces not otherwise eligible for burial in a national cemetery or who were former members of such a reserve component not otherwise eligible for burial in a national cemetery who were discharged or released from service under conditions other than dishonorable. The reference to reserve members in proposed § 3.1707(b)(3)(ii)(A) and (B) relates to the criteria for the cemetery or section of a cemetery in which the individual is buried, and is substantively a repetition of the corresponding statutory provision in 38 U.S.C. 2303(b)(1)(A) and (B). This plot or interment allowance remains available only to individuals eligible for burial in a national cemetery under 38 U.S.C. 2402, as specified in proposed § 3.1707(a), General eligibility, which provides that VA will pay the allowances described in that section ''[f]or a veteran who was eligible for burial in a national cemetery under 38 U.S.C. 2402, but was not buried in a national cemetery or other cemetery under the jurisdiction of the U.S.'' Because proposed § 3.1707 accurately reflects the eligibility criteria established in 38 U.S.C. 2303(b), VA makes no changes based on this comment.

Section 3.1708—Burial of the Remains of a Veteran Whose Remains Are Unclaimed

We received three comments about proposed § 3.1708, which would govern burial benefits for veterans whose remains are unclaimed. One commenter expressed concern with § 3.1708(d), which assigns responsibility for making burial arrangements for unclaimed veterans with the Director of the VA Regional Office in the area in which the veteran died. The commenter stated that regional offices did not have enough experience in such matters and needed training in this area. We will not make any changes to the rule at this time based upon the comments. However, we will carefully consider whether regional office directors need additional training regarding burial arrangements for unclaimed veterans in connection with the implementation of the final rule.

Another commenter supported the provisions in proposed § 3.1708, which do not include the wartime service and discharge due to disability requirements in current § 3.1600(b)(3). As mentioned in the preamble, VA eliminated these requirements based on amendments to 38 U.S.C. 2302(a) enacted in section 104 of Public Law 112–260. The same commenter also expressed concern as to whether proposed § 3.1708 would make funeral homes that provided funeral services for unclaimed veterans eligible claimants for purposes of reimbursement of funeral, burial, and transportation expenses. Proposed § 3.1702(b)(2) provided that VA will pay the ''person or entity'' that provided burial services for the remains of an unclaimed veteran. To the extent that a funeral home provided burial services for the remains of an unclaimed veteran, it is an eligible ''entity'' under § 3.1702(b)(2). However, VA agrees that the rule should be revised to clarify that VA will also pay transportation expenses in such cases. Therefore, we revise § 3.1702(b)(3) to expressly include ''transportation subject to the limitations prescribed in §§ 3.1708 and 3.1709.''

Another commenter suggested that VA revise proposed § 3.1708(c) to include transportation to a State veterans cemetery or tribal cemetery. Proposed § 3.1708(c) provided that VA may reimburse a claimant under § 3.1709 for the expenses of transporting the unclaimed remains of a veteran to a national cemetery. VA's authority to reimburse a claimant for transportation expenses associated with unclaimed remains is limited by law to ''the cost of transportation of the deceased veteran . . . for burial in a national cemetery.'' 38 U.S.C. 2308(a). Further, ''[s]uch payment shall not exceed the cost of transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available.'' Id. Because 38 U.S.C. 2308 limits reimbursement authority to transportation costs for burial in a national cemetery, VA is unable to expand through rulemaking reimbursement eligibility for transportation to State veterans and tribal cemeteries. Accordingly, VA makes no changes based on this comment.

Proposed § 3.1708(d) provided that when VA determines that a veteran's remains are unclaimed, the regional office director in the area in which the veteran died is responsible for making arrangements for burial in a national cemetery or cemetery satisfying the requirements of ''paragraph (a) of § 3.1707.'' The citation to ''paragraph (a)'' in proposed § 3.1708(d) is incorrect because paragraph (b) of proposed § 3.1708(d) is the paragraph containing the cemetery requirements. Accordingly, we revise § 3.1707(d) to correct this error. In addition, we note that under § 3.1708(d), as revised, a regional office director may make burial arrangements for the unclaimed remains of a veteran at a cemetery satisfying the requirements of § 3.1707(b), which would include a State veterans cemetery. The statutory authority for a burial allowance under proposed § 3.1708 is 38 U.S.C. 2302, which provides for ''a sum not exceeding $300 . . . to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial.'' For the reasons explained above, VA would not be authorized to pay for transportation under 38 U.S.C. 2308 when transportation is not to a national cemetery.

Section 3.1709—Transportation Expenses for Burial in a National Cemetery

We received two comments regarding proposed § 3.1709, which implements VA's authority to reimburse transportation expenses associated with burial in a national cemetery. As discussed in the NPRM, except for new provisions authorizing VA to reimburse claimants for the transportation of unclaimed veterans remains to national cemeteries, proposed § 3.1709 was largely unchanged from current burial regulations.

One commenter ''strongly supported'' the simplified language in proposed § 3.1709(d)(2) stating that VA would reimburse any reasonable transportation expense.

Another commenter suggested that VA consider amending proposed § 3.1709(a), (b), and (c) to include State and tribal veterans cemeteries. Again, VA's authority to reimburse a claimant for transportation expenses associated with unclaimed remains is limited by law to ''the cost of transportation of the deceased veteran . . . for burial in a national cemetery'' and such payment ''shall not exceed the cost of transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available.'' 38 U.S.C. 2308(a). Accordingly, paragraph (a) of § 3.1709

provides that VA will, subject to limits, reimburse the costs of transportation of veterans' remains to a national cemetery. Paragraph (b) prescribes specific eligibility criteria for transportation expenses, and paragraph (c) establishes a maximum amount for reimbursement by providing that the amount payable will not exceed the costs of transporting the remains to the national cemetery nearest the veteran's last place of residence in which burial space is available. Because section 2308 limits reimbursement authority to transportation costs for burial in a national cemetery, VA is unable to use this rulemaking to expand its reimbursement authority to cover the cost of transportation of a veteran's remains to a State or tribal cemetery. VA makes no changes based on this comment.

In the course of considering comments regarding proposed § 3.1709, VA noticed that the reference in proposed § 3.1709(c) to ''paragraph (e) of this section'' should be to ''paragraph (d) of this section,'' because § 3.1709 contains no paragraph (e). We therefore revised § 3.1709 accordingly.

General Matters

In the background section of the preamble to the proposed rule, we explained that, for purposes of efficiency, we proposed to adopt a flat-rate payment process where permitted by law based on a presumption that the expenses incurred were at least equal to the statutory maximum, unless VA has evidence to the contrary on the date it receives notice of the veteran's death. One commenter agreed with the flat-rate principle and suggested that VA ''just come up with two different dollar amounts.'' However, the statutory maximum burial rates are prescribed in statutes, e.g., 38 U.S.C. 2302 prescribes a $300 maximum payment. As a result, VA cannot through regulations establish new maximum rates. We make no changes based on this comment.

Another commenter, ''strongly support[ed] the ability of the VA to authorize and automate the payment of burial benefits at the statutory maximum.'' Recognizing that survivors face both emotional and economic loss, the same commenter also stated that the proposed rule ''would allow more eligible survivors to receive the burial benefits efficiently and painlessly.''

One commenter, a funeral services trade association, expressed concern with the effects of 1990 legislation amending the National Cemeteries Act of 1973, which limited plot and marker allowances for veterans who preferred interment in non-governmental cemeteries. The commenter stated that the ''pre-1990 plot and marker allowances were a win/win benefit that should be restored.'' As the commenter acknowledged, such a comment is beyond the scope of this rulemaking. Accordingly, we make no changes to the proposed rule.

Paperwork Reduction Act

The Office of Management and Budget (OMB) assigns a control number for each collection of information it approves. Except for emergency approvals under 44 U.S.C. 3507(j), VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. In the proposed rule, we stated that proposed § 3.1703 constitutes a collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). Specifically, except for automated burial benefit payments under § 3.1702(a), it requires an individual seeking burial benefits to file a claim with VA that includes proof of the veteran's death and a statement certifying that the individual incurred burial, plot or interment, or transportation costs of the deceased veteran. The collection of information is currently approved by OMB and assigned OMB control number 2900–0003. We display the control number under the applicable regulation text in this final rule. However, because VA determined that provisions in the proposed rule, including automated burial payments and reduced evidentiary requirements, would reduce the information collection burden, VA submitted a copy of the proposed rule to OMB for its review of the collection of information, and requested public comments on the collection of information provisions contained in § 3.1703.

We received one comment on the proposed collection of information. One commenter stated that ''[f]or such as [sic] small monetary benefit, the application should be very simple.'' We read this as an endorsement of our elimination of the application for certain burial claims, our elimination of several questions on the application, and the reduced collection burden for applicants. We make no changes to the collection based on this comment.

Summary of collection of information: The proposed rule at § 3.1703 contains collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) concerning applications for VA burial benefits.

Description of the need for information and proposed use of information: This information is needed to determine eligibility for VA monetary burial benefits.

Estimated number of respondents per year: 150,000.

Estimated frequency of responses per year: On occasion.

Estimated total annual reporting and recordkeeping burden: 37,500 hours.

VA has sent OMB the modified information collection requirement for this final rule under the previously assigned OMB control number, 2900–0003.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). Although this final rule will affect some small entities, specifically funeral homes, it will not have a significant economic impact on those entities. Under current regulations, the funeral home engaged by a deceased veteran's survivor to handle the veteran's burial may seek direct reimbursement from VA for certain expenses in lieu of collecting payment from the survivor. To facilitate automation of VA's burial benefit payments, this final rule will discontinue direct payment of a survivor's burial benefits to a funeral home. While this change might create some additional administrative burden for funeral homes, it will not have a significant economic impact under the Regulatory Flexibility Act.

VA's monetary burial benefits generally do not cover the full cost of a burial and funeral. Accordingly, under current regulations, funeral homes collect a small portion of the total charges to the veteran's survivor from VA and the remainder directly from the survivor. Under this final rule, funeral homes will use the same general business model but collect the total charges for the services they provide from the survivor. Also, surviving spouses will have VA burial benefits available for payment to funeral homes shortly after notifying VA of the veteran's death. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits

(including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action'' requiring review by OMB unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined to be a significant regulatory action under the Executive Order because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for the programs affected by this document are 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces; 64.101, Burial Expenses Allowance for Veterans; 64.102, Compensation for Service-Connected Deaths for Veterans' Dependents; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.106, Specially Adapted Housing for Disabled Veterans; 64.109, Veterans Compensation for Service-Connected Disability; 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death; 64.115, Veterans Information and Assistance; and 64.127, Monthly Allowance for Children of Vietnam Veterans Born with Spina Bifida.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Mr. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on June 2, 2014, for publication.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Pensions, Veterans.

Dated: June 3, 2014.

Robert C. McFetridge,

Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set out in the preamble, the Department of Veterans Affairs amends 38 CFR part 3 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.954 [Removed]

■ 2. Remove § 3.954.

■ 3. Revise subpart B to read as follows:

Subpart B—Burial Benefits

Burial Benefits: General

3.1700 Types of VA burial benefits.
3.1701 Deceased veterans for whom VA may provide burial benefits.
3.1702 Persons who may receive burial benefits; priority of payments.
3.1703 Claims for burial benefits.

Burial Benefits: Allowances & Expenses Paid by VA

3.1704 Burial allowance based on service-connected death.
3.1705 Burial allowance based on non-service-connected death.
3.1706 Burial allowance for a veteran who died while hospitalized by VA.
3.1707 Plot or interment allowances for burial in a State veterans cemetery or other cemetery.
3.1708 Burial of a veteran whose remains are unclaimed.
3.1709 Transportation expenses for burial in a national cemetery.

Burial Benefits: Other

3.1710 Escheat (payment of burial benefits to an estate with no heirs).
3.1711 Effect of contributions by government, public, or private organizations.
3.1712 Effect of forfeiture on payment of burial benefits.
3.1713 Eligibility based on status before 1958.

Authority: 105 Stat. 386, 38 U.S.C. 501(a), 2302–2308, unless otherwise noted.

Subpart B—Burial Benefits

Burial Benefits: General

§ 3.1700 Types of VA burial benefits.

(a) *Burial benefits.* VA provides the following types of burial benefits, which are discussed in §§ 3.1700 through 3.1712:

(1) Burial allowance based on service-connected death;

(2) Burial allowance based on non-service-connected death;

(3) Burial allowance for a veteran who died while hospitalized by VA;

(4) Burial plot or interment allowance; and

(5) Reimbursement for transportation of remains.

(b) *Definition.* For purposes of this subpart, *burial* means all the legal methods of disposing of the remains of a deceased person, including, but not limited to, cremation, burial at sea, and medical school donation.

(c) *Cross references.* (1) Other benefits and services related to the memorialization or interment of a deceased veteran and certain survivors include the following:

(i) Burial in a national cemetery (see §§ 38.600 and 38.617 through 38.629 of this chapter);

(ii) Presidential memorial certificates (see 38 U.S.C. 112);

(iii) Burial flags (see § 1.10 of this chapter); and

(iv) Headstones or markers (see §§ 38.630 through 38.633 of this chapter).

(2) The provisions of §§ 3.1702 through 3.1711 do not apply to any of the programs listed in paragraph (c)(1) of this section.

§ 3.1701 Deceased veterans for whom VA may provide burial benefits.

For purposes of providing burial benefits under subpart B of this part, the term ''veteran'' means the same as provided in 38 U.S.C. 101(2). A veteran must be deceased, and burial benefits for that veteran must be authorized by a specific provision of law. For purposes of the non-service-connected burial allowance under 38 U.S.C. 2302, the term ''veteran'' includes a person who died during a period deemed to be active military, naval, or air service under §§ 3.6(b)(7), 3.7(m) and 3.7(o).

(Authority: 38 U.S.C. 101(2), 2302, 2303, 2307, 2308)

§ 3.1702 Persons who may receive burial benefits; priority of payments.

(a) *Automatic payments to eligible surviving spouse.* On or after July 7, 2014, VA will automatically pay a burial benefit to an eligible surviving spouse when VA is able to determine eligibility based on evidence of record as of the date of the veteran's death. VA may grant additional burial benefits, including the plot or interment allowance, reimbursement for transportation, and the service-connected burial allowance under § 3.1704, to the surviving spouse or any other eligible person in accordance with paragraph (b) of this section and based on a claim described in § 3.1703.

(b) *Priority of payments—claims received on or after July 7, 2014.* (1) Except for claims a State, or an agency or political subdivision of a State, files under § 3.1707, Plot or interment allowance for burial in a State veterans cemetery or other cemetery, or § 3.1708, Burial of a veteran whose remains are unclaimed, VA will pay, upon the death of a veteran, the first living person to file of those listed below:

(i) His or her surviving spouse;

(ii) The survivor of a legal union between the deceased veteran and the survivor that is not covered by paragraph (b)(1)(i) of this section. For purposes of this paragraph, *legal union* means a formal relationship between the decedent and the survivor that

(A) Existed on the date of the veteran's death,

(B) Was recognized under the law of the State in which the couple formalized the relationship, and

(C) Was evidenced by the State's issuance of documentation memorializing the relationship;

(iii) His or her children, regardless of age;

(iv) His or her parents or the surviving parent; or

(v) The executor or administrator of the estate of the deceased veteran. If no executor or administrator has been appointed, VA may pay burial benefits based on a claim filed by a person acting for such estate who will distribute the burial benefits to the person or persons entitled to such distribution under the laws of the veteran's last State of residence.

(2) In the case of a veteran whose remains are unclaimed, VA will pay the person or entity that provided burial services and transportation subject to the limitations prescribed in §§ 3.1708 and 3.1709.

(3) VA will pay burial benefits to a single representative of the categories in paragraph (b)(1) of this section. VA will not divide applicable burial benefits among claimants; it is the responsibility of the recipient to distribute benefits as may be required.

(c) Priority of payments—claims received before July 7, 2014.

(1) Claims for burial allowance may be executed by:

(i) The funeral director, if entire bill or any balance is unpaid (if unpaid bill or the unpaid balance is less than the applicable statutory burial allowance, only the unpaid amount may be claimed by the funeral director); or

(ii) The individual whose personal funds were used to pay burial, funeral, and transportation expenses; or

(iii) The executor or administrator of the estate of the veteran or the estate of the person who paid the expenses of the veteran's burial or provided such services. If no executor or administrator has been appointed then by some person acting for such estate who will make distribution of the burial allowance to the person or persons entitled under the laws governing the distribution of interstate estates in the State of the decedent's personal domicile.

(2) Claims for the plot or interment allowance (except for claims filed by a State or an agency or political subdivision thereof), under § 3.1707 may be executed by:

(i) The funeral director, if he or she provided the plot or interment services, or advanced funds to pay for them, and if the entire bill for such or any balance thereof is unpaid (if the unpaid bill or the unpaid balance is less than the statutory plot or interment allowance, only the unpaid amount may be claimed by the funeral director); or

(ii) The person(s) whose personal funds were used to defray the cost of the plot or interment expenses; or

(iii) The person or entity from whom the plot was purchased or who provided interment services if the bill for such is unpaid in whole or in part. An unpaid bill for a plot will take precedence in payment of the plot or interment allowance over an unpaid bill for other interment expenses or a claim for reimbursement for such expenses. Any remaining balance of the plot or interment allowance may then be applied to interment expenses; or

(iv) The executor or administrator of the estate of the veteran or the estate of the person who bore the expense of the plot or interment expenses. If no executor or administrator has been appointed, claim for the plot or interment allowance may be filed as provided in paragraph (c)(1)(iii) of this section for the burial allowance.

(Authority: 38 U.S.C. 2302, 2303, 2307)

Cross Reference: § 3.1(i) for the definition of ''State''.

§ 3.1703 Claims for burial benefits.

(a) *When claims must be filed*—(1) *General rule.* Except as provided in paragraph (a)(2) of this section, VA must receive a claim for the non-service-connected burial allowance no later than 2 years after the burial of the veteran. There are no other time limitations to file claims for burial benefits under subpart B of this part.

(2) *Correction of character of discharge.* If the non-service-connected burial allowance was not payable at the time of the veteran's death or burial because of the character of the veteran's discharge from service, VA may pay the allowance if a competent authority corrects the deceased veteran's discharge to reflect a discharge under conditions other than dishonorable. Claims for the non-service-connected burial allowance must be filed no later than 2 years after the date that the discharge was corrected.

(b) *Supporting evidence*—(1) *General rule.* In order to pay burial benefits, VA must receive all of the following:

(i) A claim, except as provided in § 3.1702(a);

(ii) Proof of the veteran's death in accordance with § 3.211, Death; and

(iii) For persons listed under § 3.1702(b), except as provided in § 3.1702(a), a statement certifying that the claimant incurred burial, plot or interment, or transportation costs of the deceased veteran.

(2) *Reimbursement of transportation expenses.* In order to pay transportation costs, VA must receive a receipt, preferably on letterhead, showing who paid the costs, the name of the deceased veteran, the specific transportation expenses incurred, and the dates of the services rendered.

(3) *Eligibility based on evidence of record.* VA may establish eligibility for benefits in this subpart based upon evidence of service and disability that VA relied upon to grant disability compensation or pension during the veteran's lifetime, unless VA has some other evidence on the date that it receives notice of the veteran's death that creates doubt as to the correctness of that evidence.

(The information collection requirements in this section are approved by the Office of Management and Budget under control number 2900–0003.)

(Authority: 38 U.S.C. 2304, 5107(a))

Burial Benefits: Allowances & Expenses Paid by VA

§ 3.1704 Burial allowance based on service-connected death.

(a) *General rule.* VA will pay the maximum burial allowance specified in 38 U.S.C. 2307 for the burial and funeral expenses of a veteran described in paragraph (b) of this section, unless VA has evidence on the date it receives notice of the veteran's death that the expenses incurred were less than that amount. Payment of the service-connected burial allowance is in lieu of other allowances authorized by subpart B of this part, except those allowances listed in paragraph (c) of this section.

(b) *Eligibility.* A burial allowance is payable under this section for a veteran who died as a result of a service-connected disability or disabilities. VA will presume, unless it has evidence to the contrary on the date it receives notice of the veteran's death, that a veteran died as a result of a service-connected disability or disabilities if, at the date of death, the veteran was rated totally disabled for a service-connected disability or disabilities, excluding a total disability rating based on individual unemployability.

(c) *Additional allowances available based on service-connected death.* In addition to the service-connected burial allowance authorized by this section:

(1) VA may reimburse for transportation expenses related to burial in a national cemetery under § 3.1709, Transportation expenses for burial in a national cemetery; and

(2) VA may pay the plot or interment allowance for burial in a State veterans cemetery under § 3.1707(a), Plot or interment allowance.

(Authority: 38 U.S.C. 2303, 2307, 2308)

Cross Reference: § 3.1(i), for the definition of ''State''.

§ 3.1705 Burial allowance based on non-service-connected death.

(a) *General rule.* VA will pay the maximum burial allowance specified in 38 U.S.C. 2302 for the burial and funeral expenses of a veteran described in paragraph (b) of this section, unless VA has evidence on the date it receives notice of the veteran's death that the expenses incurred were less than that amount. Payment of the non-service-connected burial allowance is subject to other applicable regulations in subpart B of this part.

(b) *Eligibility.* A burial allowance is payable under this section for a veteran who, on the date of death:

(1) Was receiving VA pension or disability compensation;

(2) Would have been receiving disability compensation but for the receipt of military retired pay; or

(3) Had pending any of the following claims:

(i) An original claim for pension or disability compensation, and the evidence in the claims file on the date of death and any evidence received under paragraph (d) of this section is sufficient to grant pension or disability compensation effective before the date of death; or

(ii) A claim to reopen a previously denied pension or disability compensation claim, based on new and material evidence, and the evidence in the claims file on the date of the veteran's death and any evidence received under paragraph (d) of this section is sufficient to reopen the claim and grant pension or disability compensation effective before the date of death; or

(iii) A claim for which a person would be eligible to substitute for the deceased veteran under 38 U.S.C. 5121A, Substitution in case of death of claimant, and that claim, once processed to completion by the substitute, results in the grant of pension or disability compensation effective before the date of death.

(c) *Evidence in the claims file on the date of the veteran's death* means evidence in VA's possession on or before the date of the deceased veteran's death, even if such evidence was not part of the VA claims file on or before the date of death.

(d) *Requesting additional evidence.* If the veteran had either an original claim or a claim to reopen pending on the date of death and there is sufficient evidence in VA's possession to support an award of compensation or pension prior to the date of death, but VA determines that additional evidence is needed to confirm that the deceased would have been entitled prior to death, VA will request such evidence. If VA does not receive such evidence within 1 year after the date of the request, it will deny the claim.

(e) *Additional allowances available based on non-service-connected death.* In addition to the non-service-connected burial allowance authorized by this section:

(1) VA may reimburse for transportation expenses related to burial in a national cemetery under § 3.1709, Transportation expenses for burial in a national cemetery, but only if eligibility under paragraphs (b) of this section is based on a pending claim for, or award of, disability compensation, or eligibility for disability compensation but for receipt of military retired pay, rather than a claim for, or award of, pension; and

(2) VA may pay the plot or interment allowance for burial in a State veterans cemetery under § 3.1707(a), Plot or interment allowance.

(Authority: 38 U.S.C. 2302, 2303, 2304, 2308)

Cross Reference: § 3.1(i), for the definition of ''State''.

§ 3.1706 Burial allowance for a veteran who died while hospitalized by VA.

(a) *General rule.* VA will pay up to the maximum burial allowance specified in 38 U.S.C. 2303(a) for the burial and funeral expenses of a veteran described in paragraph (b) of this section.

(b) *Eligibility.* A burial allowance is payable under this section for a veteran whose death was not service-connected and who died while hospitalized by VA. For purposes of this allowance, a veteran was hospitalized by VA if the veteran:

(1) Was properly admitted to a VA facility (as described in 38 U.S.C. 1701(3)) for hospital, nursing home, or domiciliary care under the authority of 38 U.S.C. 1710 or 1711(a);

(2) Was transferred or admitted to a non-VA facility (as described in 38 U.S.C. 1701(4)) for hospital care under the authority of 38 U.S.C. 1703;

(3) Was transferred or admitted to a nursing home for nursing home care at the expense of the U.S. under the authority of 38 U.S.C. 1720;

(4) Was transferred or admitted to a State nursing home for nursing home care for which payment is authorized under the authority of 38 U.S.C. 1741;

(5) Was traveling under proper prior authorization, and at VA expense, to or

from a specified place for purpose of examination, treatment, or care; or

(6) Was hospitalized by VA pursuant to any of paragraphs (b)(1) through (4) of this section but was not at the facility at the time of death and was:

(i) On authorized absence that did not exceed 96 hours at the time of death;

(ii) On unauthorized absence for a period not in excess of 24 hours at the time of death; or

(iii) Absent from the facility for a period not in excess of 24 hours of combined authorized and unauthorized absence at the time of death.

(c) *Hospitalization in the Philippines.* Hospitalization in the Philippines under 38 U.S.C. 1731, 1732, and 1733 does not meet the requirements of this section.

(d) *Additional allowances available based on death while hospitalized by VA.* In addition to the burial allowance authorized by this section:

(1) VA will reimburse for the expense of transporting the remains of a person described in paragraph (b) of this section to the place of burial subject to the limitations of § 3.1709 and where the death occurs within a State and:

(i) The place of burial is in the same State or any other State; or

(ii) The place of burial is in Canada or Mexico. However, reimbursement for transportation of the remains for such burial is authorized only from the place of death within a State to the port of embarkation within a State, or to the border limits of the United States.

(2) VA may pay the plot or interment allowance for burial in a veterans cemetery under § 3.1707, Plot or interment allowance.

(Authority: 38 U.S.C. 2303(a), 2308)

Cross Reference: § 3.1(z) for the definition of ''nursing home'', § 3.1(i) for the definition of ''State''.

§ 3.1707 Plot or interment allowances for burial in a State veterans cemetery or other cemetery.

(a) *General eligibility.* For a veteran who was eligible for burial in a national cemetery under 38 U.S.C. 2402, but was not buried in a national cemetery or other cemetery under the jurisdiction of the U.S., VA will pay the allowances described below, provided all criteria are met.

(b) *Plot or interment allowance for burial in a State veterans cemetery.* VA will pay the plot or interment allowance in the amount specified in 38 U.S.C. 2303(b)(1) (without regard to whether any other burial benefits were provided for that veteran) to a State, or an agency or political subdivision of a State, that provided a burial plot or interment for the veteran without charge if the State, or agency or political subdivision of the State:

(1) Is claiming the plot or interment allowance for burial of the veteran in a cemetery, or section of a cemetery, owned by the State or agency or subdivision of the State;

(2) Did not charge for the expense of the plot or interment; and

(3) Uses the cemetery or section of a cemetery solely for the interment of:

(i) Persons eligible for burial in a national cemetery; and

(ii) In a claim based on a veteran's death after October 31, 2000, either:

(A) Deceased members of a reserve component of the Armed Forces not otherwise eligible for interment in a national cemetery; or

(B) Deceased former members of a reserve component of the Armed Forces not otherwise eligible for interment in a national cemetery who were discharged or released from service under conditions other than dishonorable.

(c) *Plot or interment allowance payable based on burial in other than a State veterans cemetery.* Unless VA has evidence on the date it receives notice of the veteran's death that the expenses incurred were less, VA will pay the maximum plot or interment allowance specified in 38 U.S.C. 2303(b)(2) to a claimant who incurred plot or interment expenses relating to the purchase of a burial plot for a deceased veteran if the veteran is buried in a cemetery other than a cemetery described in paragraphs (b)(1) and (b)(3) of this section and:

(1) The veteran is eligible for a burial allowance under § 3.1705, Burial allowance based on non-service-connected death;

(2) The veteran is eligible for a burial allowance under § 3.1706, Burial allowance for a veteran who died while hospitalized by VA;

(3) The veteran was discharged from active service for a disability incurred or aggravated in line of duty (VA will accept the official service record of such discharge as proof of eligibility for the plot or interment allowance and VA will disregard any previous VA determination made in connection with a claim for monetary benefits that the disability was not incurred or aggravated in line of duty); or

(4) The veteran, at the time of discharge from active service, had a disability, shown by official service records, which in medical judgment would have justified a discharge for disability.

(d) *Definitions.* For purposes of subpart B of this part, *plot* or *burial plot* means the final disposal site of the remains, whether it is a grave, mausoleum vault, columbarium niche, or other similar place. *Plot or interment expenses* are those expenses associated with the final disposition of the remains and are not confined to the acts done within the burial grounds but may include the removal of remains for burial or interment.

(Authority: 38 U.S.C. 501(a), 2303(b))

Cross Reference: § 3.1(i) for the definition of ''State''.

§ 3.1708 Burial of a veteran whose remains are unclaimed.

(a) *General.* VA will pay the maximum burial allowance specified in 38 U.S.C. 2302 for the burial and funeral expenses of a veteran described in paragraph (b) of this section, unless VA has evidence on the date it receives notice of the veteran's death that the expenses incurred were less than that amount.

(b) *Eligibility.* A burial allowance is payable under this section for a veteran if the Secretary determines that:

(1) There is no next of kin or other person claiming the remains of the deceased veteran; and

(2) There are not sufficient resources available in the veteran's estate to cover the burial and funeral expenses.

(c) *Additional allowance for transportation of unclaimed remains.* VA may reimburse for transportation expenses related to burial in a national cemetery under § 3.1709, Transportation expenses for burial in a national cemetery, for a veteran described in paragraph (b) of this section.

(d) *Burial.* When VA determines that a veteran's remains are unclaimed, the Director of the VA regional office in the area in which the veteran died will immediately complete arrangements for burial in a national cemetery or, at his or her option, in a cemetery or cemetery section meeting the requirements of paragraph (b) of § 3.1707, Plot or interment allowance.

(Authority: 38 U.S.C. 2302(a))

Cross Reference: § 3.1(i) for the definition of ''State''.

§ 3.1709 Transportation expenses for burial in a national cemetery.

(a) *General.* VA will reimburse the costs of transportation, subject to paragraph (d) of this section, of a veteran's remains for burial in a national cemetery for a veteran described in paragraph (b) of this section.

(b) *Eligibility.* VA will reimburse for the expense incurred, subject to paragraph (d) of this section, to transport a veteran's remains for burial in a national cemetery if:

(1) The veteran died as the result of a service-connected disability;

(2) The veteran was receiving service-connected disability compensation on the date of death;

(3) The veteran would have been receiving service-connected disability compensation on the date of death, but for the receipt of military retired pay or non-service-connected disability pension; or

(4) The Secretary determines the veteran is eligible for a burial allowance under § 3.1708.

(c) *Amount payable.* The amount payable under this section will not exceed the cost of transporting the remains to the national cemetery closest to the veteran's last place of residence in which burial space is available, and is subject to the limitations set forth in paragraph (d) of this section.

(d) *Reimbursable transportation expenses.* (1) VA will reimburse reasonable transportation expenses, including but not limited to the costs of shipment via common carrier (i.e., procuring permits for shipment, a shipping case, sealing of the shipping case, and applicable Federal taxes) and costs of transporting the remains to the place of burial.

(2) A reasonable transportation expense is an expense that is usual and customary in the context of burial transportation, with a corresponding charge that is the usual and customary charge made to the general public for the same or similar services.

(Authority: 38 U.S.C. 2303, 2308)

Burial Benefits: Other

§ 3.1710 Escheat (payment of burial benefits to an estate with no heirs).

VA will not pay burial benefits if the payment would escheat (that is, would be turned over to the State because there are no heirs to the estate of the person to whom such benefits would be paid).

(Authority: 38 U.S.C. 501(a))

§ 3.1711 Effect of contributions by government, public, or private organizations.

(a) *Contributions by government or employer.* With respect to claims for a plot or interment allowance under § 3.1707, if VA has evidence that the U.S., a State, any agency or political subdivision of the U.S. or of a State, or the employer of the deceased veteran has paid or contributed payment to the veteran's plot or interment expenses, VA will pay the claimant up to the lesser of:

(1) The allowable statutory amount; or

(2) The amount of the total plot or interment expenses minus the amount of expenses paid by any or all of the organizations described in this paragraph (a).

(b) *Burial expenses paid by other agencies of the U.S.* (1) *Burial allowance when Federal law or regulation also provides for payment.* VA cannot pay the non-service-connected burial allowance when any Federal law or regulation also specifically provides for the payment of the deceased veteran's burial, funeral, or transportation expenses. However, VA will pay the non-service-connected burial allowance when a Federal law or regulation allows the payment of burial expenses using funds due, or accrued to the credit of, the deceased veteran (such as Social Security benefits), but the law or regulation does not specifically require such payment. In such cases, VA will pay the maximum amount specified in 38 U.S.C. 2302.

(2) *Payment by military service department.* VA will not pay or will recoup the non-service-connected burial allowance for deaths occurring during active service or for other deaths for which the service department pays the burial, funeral, or transportation expenses.

(3) *When a veteran dies while hospitalized.* When a veteran dies while hospitalized at the expense of the U.S. government (including, but not limited to, death in a VA facility) and benefits would be otherwise payable under 10 U.S.C. 1482 and a provision of this subpart B, only one of these benefits is payable. VA will attempt to locate a relative of the veteran or another person entitled to reimbursement under § 3.1702(b) and will ask that person to elect between these benefits.

(Authority: 38 U.S.C. 2302, 2303(b))

§ 3.1712 Effect of forfeiture on payment of burial benefits.

(a) *Forfeiture for fraud.* VA will pay burial benefits, if otherwise in order, based on a deceased veteran who forfeited his or her right to receive benefits due to fraud under § 3.901, Fraud. However, VA will not pay burial benefits to a claimant who participated in fraudulent activity that resulted in forfeiture under § 3.901.

(b) *Forfeiture for treasonable acts or for subversive activity.* VA will not pay burial benefits based on a period of service commencing before the date of commission of the offense if either the veteran or the claimant has forfeited the right to all benefits except insurance payments under § 3.902, Forfeiture for treasonable acts, or § 3.903, Forfeiture for subversive activities, because of a treasonable act or subversive activities, unless the offense was pardoned by the President of the U.S.

(Authority: 38 U.S.C. 6103, 6104, 6105)

Cross Reference: § 3.1(aa), for the definition of ''fraud.''

§ 3.1713 Eligibility based on status before 1958.

When any person dies who had a status under any law in effect on December 31, 1957, that afforded entitlement to burial benefits, burial benefits will be paid, if otherwise in order, even though such status does not meet the service requirements of 38 U.S.C. chapter 23.

(Authority: 38 U.S.C. 2305)

[FR Doc. 2014–13230 Filed 6–5–14; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0922; FRL–9910–50]

Sodium Bisulfate; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of sodium bisulfate when used as an inert ingredient in antimicrobial formulations on food contact surfaces in public eating places, dairy processing equipment and food processing equipment and utensils at no more than 2,000 ppm in final formulation. Exponent on behalf of Ecolab, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of sodium bisulfate.

DATES: This regulation is effective June 6, 2014. Objections and requests for hearings must be received on or before August 5, 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–2012–0922, 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 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–2012–0922 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 August 5, 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–2012–0922, by one of the following methods:

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

II. Petition for Exemption

In the **Federal Register** of January 16, 2013 (78 FR 3377) (FRL–9375–4), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (*PP* IN–10526) by Ecolab, Inc., 370 N. Wabasha Street, St. Paul, MN 55102. The petition requested that 40 CFR 180.940(a) be amended by establishing an exemption from the requirement of a tolerance for residues of sodium bisulfate (CAS Reg. No. 7681–38–1) when used as an inert ingredient in antimicrobial pesticide formulations applied to food contact surfaces in public eating places, dairy processing equipment and food processing equipment and utensils at no more than 2,000 ppm in final formulation. That document referenced a summary of the petition prepared by Exponent, 1150 Connecticut Ave. NW., Suite 1100, Washington, DC 20036, the petitioner, which is available in the docket, *http://www.regulations.gov.*

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for 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. . . .''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will

result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), 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 sodium bisulfate including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with sodium bisulfate follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by sodium bisulfate as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

The acute oral toxicity of sodium bisulfate is low. The acute oral LD_{50} in male rats was 2,800 mg/kg. It was minimally irritating to the rabbit's skin and mildly irritating to the eyes. An acute inhalation study was available with sodium sulfate. Inhalation toxicity was not observed at 0.01 mg/l (the only dose tested). No dermal toxicity or dermal sanitization studies were available in the database.

Due to the lack of data for sodium bisulfate, both human metabolic processes and toxicity data for sodium sulfate were used for the risk characterization. Both sodium bisulfate and sodium sulfate readily undergo hydrolysis and dissociate to sodium ions and sulfate ions in the body.

Sodium sulfate was administered to male Sprague-Dawley rats at a dietary concentration of 0.84% (approximately 320–400 mg/kg/day) for 27 and 44 weeks. There was no mortality, tumors, body weight change or significant changes in food and/or water consumption. The NOAEL was ~320–400 mg/kg/day. In another study, male Sprague-dawley rats were given in diet 0.0, 0.125, 0.250, 0.5, 1 and 2% sodium sulfate (approximately 0, 125, 250, 500, 1,000 and 2,000 mg/kg/day) for 4 weeks. No changes in food and water consumption, body weight gain, food conversion efficiency, urine production or diarrhea. Blood hemoglobin, white blood count, serum alkaline phosphatase, inorganic phosphate and gross organ pathology were also unaffected. The NOAEL was 2,000 mg/kg/day (highest dose tested). A LOAEL was not observed in this study.

Sodium sulfate showed no mutagenic effect in the Ames test using various strains of *S. typhimurium* (TA1535, TA1537, TA100, TA98) both with and without S9 activation.

No carcinogenicity studies were available in the database. The National Toxicology Program (NTP), International Agency for Research on Cancer (IARC), and Occupational Safety & Health Administration (OSHA) have not listed sodium bisulfate as a carcinogen. A DEREK analysis was performed on sodium bisulfate and no structural alerts were detected. EPA concluded that sodium bisulfate is unlikely to pose a carcinogenic risk to humans based on lack of mutagenicity concerns for sodium sulfate, lack of any structural alerts for carcinogenicity, lack of any systemic toxicity at doses up to 2,800 mg/kg/day, and its metabolism to form a sulfate which is natural constituent present in the body.

Sodium sulfate was included in a test of a method for rapid assessment of teratogenicity. Pregnant ICR/SIM mice were given a saturated aqueous solution of sodium sulfate orally by gavage to deliver a dose of 2,800 mg/kg/day on days 8–12 of gestation. No maternal deaths occurred and the average maternal weight gain during the treatment period was not significantly different from that of water-treated controls. Twenty-four litters were delivered alive, and none were resorbed. The mean numbers of neonates delivered alive and dead in each litter and the survival of neonates on day 3 were not statistically significantly different from those of controls. Only body weight on day 1 was statistically significantly greater than that of controls. The maternal and developmental NOAEL = 2,800 mg/kg bw, the only dose tested.

No immunotoxicity, neurotoxicity or reproductive toxicity studies were available in the database.

Sodium bisulfate mammalian metabolism is essentially that of the sodium cation and sulfate anion. As previously noted, when sodium bisulfate is added to food products containing water or after ingestion of sodium bisulfate it ionizes to sodium ions, hydrogen ions and sulfate ions. Following ingestion, sulfate anions are predominantly not absorbed from the gastrointestinal tract and are excreted unchanged in urine. However, the sulfate anion is a normal constituent in the body, predominantly resulting from the body's metabolism of sulfur-containing food sources such as foods containing the essential amino acids cysteine and methionine. Sulfate anions are vital components in a number of human biosynthetic pathways such as cartilage production and the formation of pancreatic digestive enzymes. Additionally, the sulfate anion is also an important conjugate in the Phase II conjugation/elimination of oxidized (OH) aromatic ring metabolites and for hydroxyl steroid hormones, such as estrogen, where it acts as a transport agent to target organ tissue receptors.

B. Toxicological Points of Departure/Levels of Concern

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

There was no hazard identified in repeat dose developmental studies at the limit dose of 2,800 mg/kg/day of sodium sulfate to either parental animals or their offspring. No effects were seen in two subchronic oral toxicity up to approximately 2,000 mg/kg/day of sodium sulfate. Based on the metabolism of sodium bisulfate to sulfate and sodium ions, both of which are essential components in the human

metabolic processes, there is a lack of toxicological concern. Thus, due to its low potential hazard and lack of hazard endpoint, the Agency has determined that a quantitative risk assessment using safety factors applied to a point of departure protective of an identified hazard endpoint is not appropriate.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to sodium bisulfate, EPA considered exposure under the proposed exemption from the requirement of a tolerance (40 CFR 180.940(a)) such as food in contact with sanitized counters in public eating places, utensils, dairy processing equipment and food processing equipment as well as other uses which may result in dietary exposure.

However, because no hazard was identified for the acute and chronic dietary assessment (food and drinking water), or for the short-, intermediate-, and long-term residential assessments, no quantitative aggregate exposure assessments were performed.

2. *Dietary exposure from drinking water.* Residues of sodium bisuflate from uses in food contact sanitizing solutions, utensil, dairy processing equipment and food processing equipment may enter drinking water. However, because no hazard was identified for the acute and chronic dietary assessment, or for the short-, intermediate-, and long-term residential assessments as listed in this unit, no quantitative aggregate exposure assessments were performed.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

Residential (dermal and inhalation) exposure from food contact surface sanitizing solutions for public eating places, dairy-processing equipment, food-processing equipment and utensils are possible. Since an endpoint for risk assessment was not identified, a quantitative residential exposure assessment for sodium bisulfate was not conducted.

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

D. Safety Factor for Infants and Children

The toxicity database for sodium bisulfate is adequate for assessment of risks to infants and children and the potential exposure is adequately characterized given the low toxicity of the chemical and formation of sulfate ion. No hazard was identified and there is no residual uncertainty regarding prenatal and/or postnatal toxicity. No acute or subchronic neurotoxicity studies are available, but there were no clinical signs of neurotoxicity or any systemic toxicity observed in the available database at doses up to 2,800 mg/kg/day. No developmental, reproductive, or teratogenic effects were seen in the available studies at doses up to and including 2,800 mg/kg/day.

Based on this information, there is no concern at this time for increased sensitivity to infants and children to sodium bisulfate when used as an inert ingredient in pesticide formulations for food contact surface sanitizing applications and a safety factor analysis has not been used to assess risk. For the same reason, EPA has determined that an additional safety factor is not needed to protect the safety of infants and children.

E. Aggregate Risks and Determination of Safety

Taking into consideration all available information on sodium bisulfate, EPA has determined that there is a reasonable certainty that no harm to any population subgroup, including infants and children, will result from aggregate exposure to sodium bisulfate under reasonable foreseeable circumstances. Therefore, the establishment of an exemption from tolerance under 40 CFR 180.940(a) for residues of sodium bisulfate when used as an inert ingredient in pesticide formulations applied to food contact surface sanitizing solutions for public eating places, dairy processing equipment, food processing equipment and utensils at no more than 2,000 ppm in formulation, is safe under FFDCA section 408.

V. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of sodium bisulfate in or on any food commodities. EPA is establishing a limitation on the amount of sodium bisulfate that may be used in pesticide formulations. The limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide for sale or distribution that contains greater than 2,000 ppm of sodium bisulfate in the pesticide formulation.

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 Nation 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 a MRL for sodium bisulfate.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.940(a) for sodium bisulfate (CAS Reg. No. 7681–38–1) when used as an inert ingredient in antimicrobial pesticide formulations applied to food contact surface sanitizing solutions for public eating places, dairy processing equipment, food processing equipment and utensils at no more than 2,000 ppm in formulation.

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance 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).

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: June 2, 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 § 180.940, in the table in paragraph (a), alphabetically add the following inert ingredient to read as follows:

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).

* * * * *

(a) * * *

Pesticide chemical	CAS Reg. No.	Limits
* * *	* * *	* * *
Sodium bisulfate	7681–38–1	When ready for use, the end-use concentration is not to exceed 2,000 ppm.
* * *	* * *	* * *

[FR Doc. 2014–13229 Filed 6–5–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0654 and EPA–HQ–OPP–2013–0655; FRL–9910–38]

Flutriafol; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes, amends, and removes tolerances for residues of flutriafol in or on multiple commodities which are identified and discussed later in this document. Cheminova A/S c/o Cheminova, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 6, 2014. Objections and requests for hearings must be received on or before August 5, 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–2013–0654 and EPA–HQ–OPP–2013–0655, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP

Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: 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 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 the appropriate docket ID number, EPA–HQ–OPP–2013–0654 and/or EPA–HQ–OPP–2013–0655, for the pesticide petition of interest 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 August 5, 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 the appropriate docket ID number, EPA–HQ–OPP–2013–0654 and/or EPA–HQ–OPP–2013–0655, for the pesticide petition of interest by one of the following methods:

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of October 25, 2013 (78 FR 63938) (FRL–9901–96), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions (*PP* 3F8156; EPA–HQ–OPP–2013–0654) and (*PP* 3F8174; EPA–HQ–OPP–2013–0655) by Cheminova A/S, c/o Cheminova, Inc., 1600 Wilson Blvd., Suite 700, Arlington, VA 22209–2510. The petitions requested that 40 CFR 180.629 amend the current established tolerances for residues of the fungicide flutriafol, including its metabolites and degradates, in or on corn, field, forage to 5 parts per million (ppm); corn, field, stover to 15 ppm; corn, pop, stover to 15 ppm (PP 3F8156). The petitions also requested that the 40 CFR part 180 be amended by establishing tolerances for residues of the fungicide flutriafol, including its metabolites and degradates, in or on cattle, liver at 1.0 ppm; cattle, meat byproducts, except liver at 0. 10 ppm; cattle, muscle at 0.03 ppm; goat, liver at 1.0 ppm; goat, meat byproducts, except liver at 0.10 ppm; goat, muscle at 0.03 ppm; horse, liver at 1.0 ppm; horse, meat byproducts, except liver at 0.10 ppm; horse, muscle at 0.03 ppm; milk at 0.01 ppm; sheep, liver at 1.0 ppm; sheep, meat byproducts, except liver at 0.10 ppm; sheep, muscle at 0.03 ppm (*PP* 3F8156); african tree nut at 0.015 ppm; almond, nutmeat at 0.6 ppm; almond, hulls at 15 ppm; brazil nut at 0.015 ppm; bur oak at 0.015 ppm; butternut at 0.015 ppm; cajon at 0.015 ppm; cashew at 0.015 ppm; castanha-do-maranhao at 0.015 ppm; coconut at 0.015 ppm; coquito nut at 0.015 ppm; dika nut at 0.015 ppm; guiana chestnut at 0.015 ppm; hazelnut at 0.015 ppm; heartnut at 0.015 ppm; hickory nut at 0.015 ppm; Japanese horse-chestnut at 0.015 ppm; macadamia nut at 0.015 ppm; mongongo nut at 0.015 ppm; monkey-pot at 0.015 ppm; pachira nut at 0.015 ppm; peanut, hay at 15 ppm; pecan at 0.015 ppm; sapucaia nut at 0.015 ppm; strawberry at 1.5 ppm; tomato, paste at 1.5 ppm; triticale, grain at 0.10 ppm; vegetable, cucurbit, Group 9 at 0.20 ppm; vegetable, fruiting, Group 8–10 at 0.60 ppm; walnut, black at 0.015 ppm; walnut, English at 0.015 ppm; wheat, forage at 30 ppm; wheat, grain at 0.10 ppm; wheat, hay at 15 ppm; and wheat, straw at 9 ppm (*PP* 3F8174). The documents referenced a summary of the petitions prepared by Cheminova, Inc., the registrant, which is available in the docket, *http://www.regulations.gov.* There was one comment received in response to the notice of filings and is discussed in Unit IV.D.

Based upon review of the data supporting the petitions, proposed tolerances for cattle, liver; cattle, meat by products, except liver; goat, liver; goat, meat by products, except liver; horse, liver; horse, meat by products, except liver; sheep, liver; and sheep, meat by products, except liver were lowered. The proposed tolerances for wheat, grain; pecan; african tree nut; brazil nut; bur oak, butternut, cajou; cashew; castanha-do-maranhao; coconut; coquito nut; dika nut; guiana chestnut; hazelnut; heartnut; hickory nut; japanese horse-chestnut; macadamia nut; mongongo nut; monkey-pot; pachira nut; sapucaia nut; walnut, black; walnut, english; vegetable, cucurbit, group 9; vegetable, fruiting, group 8–10; cattle, muscle; goat, muscle; horse, muscle; and sheep, muscle were increased. A tolerance for triticale, grain is not needed and so is not being established. On the other hand, EPA has determined that tolerances are needed for hog, fat and hog, muscle and accordingly are being established. The established tolerances for cattle, meat by products; goat, meat

by products; horse, meat by products; and sheep, meat by products are being removed. The reasons for these changes are explained in Unit IV.C.

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 flutriafol including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with flutriafol 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.

Flutriafol has high oral acute toxicity in the mouse. It has low acute toxicity via the oral, dermal, and inhalation routes in rats. Flutriafol is minimally irritating to the eyes and is not a dermal irritant. Flutriafol was not shown to be a skin sensitizer when tested in guinea pigs.

Short-term, subchronic, and chronic toxicity studies in rats, mice, and dogs identified the liver as the primary target organ of flutriafol. Hepatotoxicity was first evident in the subchronic studies (rats and dogs) in the form of increases in liver enzyme release (alkaline phosphatase), and liver weights, and histopathology findings ranging from hepatocyte vacuolization to centrilobular hypertrophy and slight increases in hemosiderin-laden Kupffer cells. It is noteworthy that with chronic exposures there are no indications of progression of liver toxicity in any of the species tested. After over 1 year of exposure, hepatotoxicity in rats, dogs, and mice took the form of minimal to severe fatty changes; bile duct proliferation/cholangiolarfibrosis; hemosiderin accumulation in Kupffer cells; centrilobular hypertrophy, and increases in alkaline phosphatase release. Slight indications of effects in the hematopoietic system are sporadically seen in the database. These effects were manifested in the form of slight anemia (rats and dogs) and increased platelet, white blood cell, neutrophil, and lymphocyte counts (mice). These effects, however, were minimal in severity.

Flutriafol is considered to be ''Not likely to be Carcinogenic to Humans'' based on the results of the carcinogenicity studies in rats and mice. The results of the rat chronic toxicity/carcinogenicity study and the mouse carcinogenicity study are negative for carcinogenicity. All genotoxicity studies on flutriafol showed no evidence of clastogenicity or mutagenicity.

Specific information on the studies received and the nature of the adverse effects caused by flutriafol as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the most recent risk assessment, ''Flutriafol: Human-Health Risk Assessment for Tolerances in/on Field Corn, Popcorn, Peanut, Wheat, Strawberries, Cucurbit, Vegetables, Fruiting Vegetables, and Tree Nuts,'' which can be found at *http://www.regulations.gov,* under document ID number EPA–HQ–OPP–2013–0654–0005 and EPA–HQ–2013–0655–0007.

B. Toxicological Points of Departure/Levels of Concern

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

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

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (Females 13–49 years of age).	NOAEL = 7.5 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = 0.075 mg/kg/day. aPAD = 0.075 mg/kg/day	Developmental Study—rabbit. LOAEL = 15 mg/kg/day based on decreased number of live fetuses, complete litter resorptions and increased post-implantation loss.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR FLUTRIAFOL FOR USE IN HUMAN HEALTH RISK ASSESSMENT—Continued

Exposure/scenario	Point of departure and uncertainty/ safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (General population including infants and children).	NOAEL = 250 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = 2.5 mg/kg/day. aPAD = 2.5 mg/kg/day	Neurotoxicity screening battery—rat. LOAEL = 750 mg/kg/day based on decreased body weight, body-weight gain, absolute and relative food consumption, and clinical signs of toxicity in both sexes: Dehydration, urine-stained abdominal fur, ungroomed coat, ptosis, decreased motor activity, prostration, limp muscle tone, muscle flaccidity, hypothermia, hunched posture, impaired or lost righting reflex, scant feces; in males: Red or tan perioral substance, chromodacryorrhea, chromorhinorrhea and labored breathing, and in females: Piloerection and bradypnea.
Chronic dietary (All populations)	NOAEL = 5 mg/kg/day UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.05 mg/kg/day. cPAD = 0.05 mg/kg/day	Chronic toxicity—dog. LOAEL = 20 mg/kg/day based on adverse liver findings (increased liver weights, increased centrilobular hepatocyte lipid in the liver, and increases in alkaline phosphatase, albumin, and triglycerides), increased adrenal cortical vacuolation of the zona fasciculata, and marked hemosiderin pigmentation in the liver and spleen in both sexes; mild anemia (characterized by decreased hemoglobin, hematocrit, and red blood cell count) in the males; and initial body weight losses, decreased cumulative body-weight gains, and increased adrenal weights in the females.
Dermal short (1 to 30 days) and Intermediate (1–6 months) Term.	NOAEL = 7.5 mg/kg/day. Dermal absorption factor = 21%[1] UF_A = 10x UF_H = 10x	Occupational LOC for MOE = 100.	Developmental toxicity—rabbit. Developmental LOAEL = 15 mg/kg/day based on decreased number of live fetuses, complete litter resorptions, and increased post-implantation loss.
Inhalation short (1 to 30 days) and Intermediate (1–6 months) Term.	NOAEL= 7.5 mg/kg/day. Inhalation toxicity assumed to be equivalent to oral toxicity Inhalation-absorption factor = 100%[2] UF_A = 10x UF_H = 10x	Occupational LOC for MOE = 100.	Developmental toxicity—rabbit. Developmental LOAEL = 15 mg/kg/day based on decreased number of live fetuses, complete litter resorptions, and increased post-implantation loss.
Cancer (Oral, dermal, inhalation).	Classification: ''Not likely to be Carcinogenic to Humans'' based on the carcinogenicity studies in rats and mice.		

[1] Dermal absorption factor was derived from the dermal penetration study.
[2] Inhalation absorption factor is considered the worst-case scenario for inhalation exposure using an oral NOAEL.
FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. Mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. 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 flutriafol, EPA considered exposure under the petitioned-for tolerances as well as all existing flutriafol tolerances in 40 CFR 180.629. EPA assessed dietary exposures from flutriafol 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 flutriafol. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture's (USDA) National Health and Nutrition Examination Survey, What We Eat In America (NHANES/WWEIA) conducted from 2003–2008. As to residue levels in food, EPA made the following assumptions for the acute exposure assessment: Tolerance-level residues or tolerance-level residues adjusted to account for the residues of concern for risk assessment and 100 percent crop treated (PCT). Since adequate processing studies have been submitted which indicate that tolerances for residues in/on apple juice, grape juice, dried prunes, and tomato puree are unnecessary and since tolerances for residues in/on raisin and tomato paste tolerances are established/recommended, the default processing factors for these commodities were reduced to 1. The default processing factors were retained for the remaining relevant commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA's (NHANES/WWEIA) conducted from 2003–2008 as well. As to the residue levels in food, EPA made the following assumptions for the chronic exposure assessment: Tolerance-level residues or tolerance-level residues adjusted to account for the residues of concern for risk

assessment and 100 PCT. Since adequate processing studies have been submitted which indicate that tolerances for residues in/on apple juice, dried prunes, grape juice, and tomato puree are unnecessary and since tolerances for residues in/on raisin and tomato paste tolerances are established/recommended, the default processing factors for these commodities were reduced to 1. The default processing factors were retained for the remaining relevant commodities.

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

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

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the flutriafol dietary exposure analysis and risk assessment. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of flutriafol. 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 Food Quality Protection Act (FQPA), First Index Reservoir Screening Tool (FIRST), Pesticide Root Zone Model/Ground Water (PRZM/GW), the estimated drinking water concentrations (EDWCs) of flutriafol for acute exposures are estimated to be 40.55 parts per billion (ppb) for surface water and 310 ppb for ground water.

For chronic exposures for cancer assessments the EDWC's are estimated to be 4.03 ppb for surface water and 202 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute and chronic dietary risk assessment, the water concentration value of 310 ppb and 202 ppb, respectively, were 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). Flutriafol 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.''

Flutriafol is a member of the triazole-containing class of pesticides. Although conazoles act similarly in plants (fungi) by inhibiting ergosterol biosynthesis, there is not necessarily a relationship between their pesticidal activity and their mechanism of toxicity in mammals. Structural similarities do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same, sequence of major biochemical events. In conazoles, however, a variable pattern of toxicological responses is found; some are hepatotoxic and hepatocarcinogenic in mice. Some induce thyroid tumors in rats. Some induce developmental, reproductive, and neurological effects in rodents. Furthermore, the conazoles produce a diverse range of biochemical events including altered cholesterol levels, stress responses, and altered DNA methylation. It is not clearly understood whether these biochemical events are directly connected to their toxicological outcomes. Thus, there is currently no evidence to indicate that conazoles share common mechanisms of toxicity and EPA is not following a cumulative risk approach based on a common mechanism of toxicity for the conazoles. For information regarding EPA's procedures for cumulating effects from substances found to have a common mechanism of toxicity, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

Triazole-derived pesticides can form the metabolite 1,2,4-triazole (T) and two triazole conjugates triazolylalanine (TA) and triazolylacetic acid (TAA). To support existing tolerances and to establish new tolerances for triazole-derivative pesticides, EPA conducted an initial human-health risk assessment for exposure to T, TA, and TAA resulting from the use of all current and pending uses of any triazole-derived fungicide as of September 1, 2005. The risk assessment was a highly conservative, screening-level evaluation in terms of hazards associated with common metabolites (e.g., use of a maximum combination of uncertainty factors (UFs)) and potential dietary and non-dietary exposures (i.e., high-end estimates of both dietary and non-dietary exposures). In addition, the Agency retained the additional 10X Food Quality Protection Act (FQPA) safety factor (SF) for the protection of infants and children. The assessment included evaluations of risks for various subgroups, including those comprised of infants and children. The Agency's complete risk assessment can be found in the propiconazole reregistration docket at *http://www.regulations.gov,* docket ID number EPA–HQ–OPP–2005–0497 and an update to the aggregate human health risk assessment for free triazoles and its conjugates may be found in this current docket, docket ID number EPA–HQ–OPP–2013–0295 entitled ''Common Triazole Metabolites: Updated Dietary (Food + Water) Exposure and Risk Assessment to Address the Revised Tolerance for Residues of Fenbuconazole in Peppers.'' Based on the triazole residue estimates resulting from the proposed uses for flutriafol, a revised triazole risk assessment is unnecessary.

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 SF. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* The potential impact of *in utero* and perinatal flutriafol exposure was investigated in three developmental toxicity studies (two in rats, one in rabbits) and two multi-generation reproduction toxicity studies in rats. In the first of two rat developmental toxicity studies, a quantitative susceptibility was observed (delayed ossification or non-ossification of the skeleton in the fetuses) at a lower dose than maternal effects. In the second rat developmental study, a qualitative susceptibility was noted. Although the developmental toxicity occurred at the same dose level that elicited maternal toxicity, the developmental effects (external, visceral, and skeletal malformations; embryo lethality

variations; a generalized delay in fetal development; and fewer live fetuses) were more severe than the decreased food consumption and body-weight gains observed in the dams. For rabbits, intrauterine deaths occurred at a dose level that also caused adverse effects in maternal animals. In the 2-generation reproduction studies, a qualitative susceptibility was also seen. Effects in the offspring (decreased litter size and percentage of live births, increased pup mortality, and liver toxicity) can be attributed to the systemic toxicity of the parental animals (decreased body weight and food consumption and liver toxicity.)

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. That decision is based on the following findings:

i. The toxicity database for flutriafol is complete.

ii. There is no indication that flutriafol is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity. Signs of neurotoxicity were reported in the acute and subchronic neurotoxicity studies at the highest dose only; however, these effects were primarily seen in animals that were agonal (at the point of death) and, thus, are not indicative of neurotoxicity. In addition, there was no evidence of neurotoxicity in any additional short-term studies in rats, mice, and dogs, or in the long-term toxicity studies in rats, mice, and dogs.

iii. There are no concerns or residual uncertainties for prenatal and/or postnatal toxicity. Although there is evidence for increased quantitative and qualitative susceptibility in the prenatal study in rats and rabbits and the 2-generation reproduction study in rats, there are no concerns for the offspring toxicity observed in the developmental and reproductive toxicity studies for the following reasons:

- Clear NOAELs and LOAELs were established in the fetuses/offspring for each of these studies.
- The dose-response for these effects are well-defined and characterized.
- Developmental endpoints are used for assessing acute dietary risks to the most sensitive population (females 13–49 years old) as well as all other short- and intermediate-term exposure scenarios.
- The chronic reference dose is greater than 300-fold lower than the dose at which the offspring effects were observed in the 2-generation reproduction studies.

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 flutriafol in drinking water. These assessments will not underestimate the exposure and risks posed by flutriafol.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to flutriafol will occupy 31% of the aPAD for females 13–49 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 flutriafol from food and water will utilize 51% of the cPAD for children (1–2 years old the population group receiving the greatest exposure. Because there are no residential uses for flutriafol, the chronic aggregate risk includes food and drinking water only.

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

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, flutriafol is classified as ''not likely to be carcinogenic to humans.'' EPA does not expect flutriafol to pose a cancer risk.

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 flutriafol residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (Gas Chromatography/Nitrogen/Phosphorus detector (GC/NPD) for proposed tolerances) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

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

There are no Canadian or Mexican MRLs for flutriafol in/on the proposed commodities with the exception for peanut hay; dried chili peppers; sweet peppers; wheat straw; wheat grain and wheat bran. The Codex has established MRLs for flutriafol in or on dried chili peppers at 10 ppm; peanut, hay at 20 ppm; sweet peppers at 1 ppm; wheat, bran at 0.3 ppm; wheat, grain at 0.15 ppm; and wheat, straw at 8 ppm. Wheat, bran and wheat, grain MRLs are the same as the tolerances being established for flutriafol in the United States. The Agency is establishing tolerances for vegetable, fruiting, group 8–10 at 1.0 ppm to harmonize with the Codex sweet pepper MRL.

Harmonization of the peanut, hay and wheat, straw tolerances were determined to be unnecessary as these commodities do not normally enter international commerce.

C. Revisions to Petitioned-For Tolerances

Based on an analysis of feeding studies and on the livestock maximum reasonable dietary burdens, EPA is establishing tolerances for hog, fat and hog, muscle and establishing lower tolerances than those proposed by the petitioner for cattle, liver; cattle, meat by products, except liver; goat, liver; goat, meat by products, except liver; horse, liver; horse, meat by products, except liver; sheep, liver; and sheep, meat by products, except liver. For the same reason EPA is establishing higher tolerance than those proposed by the petitioner for cattle, muscle; goat, muscle; horse, muscle; and sheep, muscle.

EPA established higher tolerance than those proposed by the petitioner for African tree nut; brazil nut; bur oak, butternut, cajou; cashew; castanha-do-maranhao; coconut; coquito nut; dika nut; guiana chestnut; hazelnut; heartnut; hickory nut; Japanese horse-chestnut; macadamia nut; mongongo nut; monkey-pot; pachira nut; sapucaia nut; vegetable, cucurbit, group 9; walnut, black; walnut, english and wheat, grain based upon the analysis of residue levels from crop field trial data and the Organization for Economic Cooperation Development (OECD) tolerance calculation procedure. The proposed tolerance for triticale is unnecessary because triticale is covered by the wheat tolerances. As the petitioned for tolerances for liver and meat byproducts of cattle, goat, horse, and sheep, replace meat byproducts tolerances for cattle, goat, horse, and sheep, the latter tolerances are being removed.

D. Response to Comments

EPA received one comment to the Notice of Filing that stated, in part, that no residues or increase in residues should be allowed for flutriafol. No additional data was provided by the commenter for Agency review. 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 FFDCA section 408 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. As is the case with almost all conventional pesticides, numerous tests have been performed to study the toxicological effects of flutriafol. The various tests use doses that range from quite low to many times higher than virtually any member of the population of the United States could ever be exposed to. The highest doses are, in fact, deliberately chosen to try to elicit toxicological symptoms because a description of these symptoms and the dose levels at which they occur is one of the desired outcomes of the studies. Virtually any chemical (vitamins, for example) is toxic if taken in excessively large doses. Risk, however, is a function of the exposure levels that actually occur in the population in comparison to the threshold exposure level at which adverse symptoms begin to be elicited. For a toxicologically average person, if actual exposure is less than the adverse symptom exposure threshold, no such symptoms are expected to be seen. However, in order to make the reasonable certainty of no harm determination the Agency requires more assurance than this that the use of animals (instead of humans) for testing, variations in susceptibility among members of the U.S. population, greater sensitivity of infants and children, etc., has been accounted for in the risk assessment process. Therefore, safety factors are used in conjunction with dosing levels at which no or only the first symptoms of exposure to the pesticide were seen to provide a substantial additional margin of safety. This mechanism helps assure that toxicological symptoms will not be elicited in members of the U.S. population by beneficial, labeled uses of the pesticide. The fact that very high doses of a pesticide cause toxicological symptoms is not, by itself, enough to make approval of uses of that pesticide unreasonable.

V. Conclusion

Therefore, tolerances are established for residues of flutriafol, in or on African tree nut at 0.02 ppm; Almond at 0.60 ppm; Almond hull at 15 ppm; Brazil nut at 0.02 ppm; Butternut at 0.02 ppm; Bur oak at 0.02 ppm; Cajou at 0.02 ppm; Cashew at 0.02 ppm; Castanha-Do-Maranhao at 0.02 ppm; Cattle, fat at 0.05 ppm; Cattle, liver at 0.80 ppm; Cattle, meat by products, except liver at 0.05 ppm; Cattle, muscle at 0.05 ppm; Coconut at 0.02 ppm; Coquito nut at 0.02 ppm; Corn, field, forage at 5.0 ppm; Corn, field, stover to 15 ppm; Corn, pop, stover to 15 ppm; Dika nut at 0.02 ppm; Guiana chestnut at 0.02 ppm; Goat, fat at 0.05 ppm; Goat liver at 0.80 ppm; Goat, meat byproducts, except liver at 0.05 ppm; Goat, muscle at 0.05 ppm; Hazelnut at 0.02 ppm; Heartnut at 0.02 ppm; Hickory nut at 0.02 ppm; Hog, fat at 0.01 ppm; Hog, muscle at 0.01 ppm; Horse, fat at 0.05 ppm; Horse, liver at 0.80 ppm; Horse, meat byproducts, except liver at 0.05 ppm; Horse, muscle at 0.05 ppm; Japanese horse-chestnut at 0.02 ppm; Macadamia nut at 0.02 ppm; Milk at 0.01 ppm; Mongongo nut at 0.02 ppm; Monkey-pot at 0.02 ppm; Pachira nut at 0.02 ppm; Peanut, hay at 15 ppm; Pecan at 0.02 ppm; Sapucaia nut at 0.02 ppm; Sheep, fat at 0.05 ppm; Sheep, liver at 0.80 ppm; Sheep, meat byproducts, except liver at 0.05 ppm; Sheep, muscle at 0.05 ppm; Strawberry at 1.5ppm; Tomato, paste at 1.5 ppm; Vegetable, cucurbit, group 9 at 0.30 ppm; Vegetable, fruiting, group 8–10 at 1.0 ppm; Walnut, black at 0.02 ppm; Walnut, English at 0.02 ppm; Wheat, bran at 0.30 ppm; Wheat, forage at 30 ppm; Wheat, germ at 0.25 ppm; Wheat, grain at 0.15 ppm; Wheat, hay at 15 ppm; and Wheat, straw at 9.0 ppm.

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: June 2, 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 § 180.629, revise the table in paragraph (a) to read as follows:

§ 180.629 Flutriafol; tolerances for residues.

(a) * * *

Commodity	Parts per million
African tree nut	0.02
Almond	0.60
Almond, hull	15
Banana [1]	0.30
Beet sugar	0.08
Brazil nut	0.02
Bur oak	0.02
Butternut	0.02
Cajou	0.02
Cashew	0.02
Castanha-do-maranhao	0.02
Cattle, fat	0.05
Cattle, liver	0.80
Cattle, meat byproducts, except liver	0.05
Cattle, muscle	0.05
Coconut	0.02
Coffee, green, bean [1]	0.15
Coffee, instant [1]	0.30
Coquito nut	0.02
Corn, field, forage	5.0
Corn, field, grain	0.01
Corn, field, refined oil	0.02
Corn, field, stover	15
Corn, pop	0.01
Corn, pop, stover	15
Dika nut	0.02
Fruit, pome, group 11–09	0.40
Fruit, stone, group 12–10	1.5
Goat, fat	0.05
Goat, liver	0.80
Goat, meat byproducts, except liver	0.05
Goat, muscle	0.05
Grain, aspirated fractions	2.2
Grape	1.5
Grape, raisin	2.4
Guiana chestnut	0.02
Hazelnut	0.02
Heartnut	0.02
Hickory nut	0.02
Hog, fat	0.01
Hog, muscle	0.01
Horse, fat	0.05
Horse, liver	0.80
Horse, meat byproducts, except liver	0.05
Horse, muscle	0.05
Japanese horse-chestnut	0.02
Macadamia nut	0.02
Milk	0.01
Mongongo nut	0.02
Monkey-pot	0.02
Pachira nut	0.02
Peanut	0.09
Peanut, hay	15
Pecan	0.02
Sapucaia nut	0.02
Sheep, fat	0.05
Sheep, liver	0.80
Sheep, meat byproducts, except liver	0.05
Sheep, muscle	0.05
Soybean, seed	0.35
Strawberry	1.5
Tomato, paste	1.5
Vegetable, cucurbit, group 9	0.30
Vegetable, fruiting, group 8–10	1.0
Walnut, black	0.02
Walnut, English	0.02
Wheat, bran	0.30
Wheat, forage	30
Wheat, germ	0.25
Wheat, grain	0.15
Wheat, hay	15
Wheat, straw	9.0

[1] There are no U.S. registrations as of October 22, 2013.

* * * * *

[FR Doc. 2014–13223 Filed 6–5–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1990–0011; FRL–9911–80–Region 4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the B&B Chemical Co., Inc.

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 is publishing this direct final Notice of Deletion for the B&B Chemical Co., Inc. Superfund Site (Site), located in Miami-Dade County, Florida, from the National Priorities List (NPL) and requests public comments on this action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Florida, through the Florida Department of Environmental Protection (FDEP), have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective August 5, 2014 unless EPA receives adverse comments by July 7, 2014. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No., EPA–HQ–SFUND–1990–0011, by one of the following methods:

- *www.regulations.gov* Follow the on-line instructions for submitting comments.
- *Email: johnston.shelby@epa.gov.*
- *Fax:* (404) 562–8287, Attention: Shelby Johnston.
- *Mail:* Shelby Johnston, Remedial Project Manager, Superfund Remedial Section D, Superfund Remedial Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

Hand Delivery: U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Docket's normal hours of operation and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1990–0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at: U.S. EPA Record Center, attn: Mr. Ronald Saskowski, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960, Phone: (404) 562–8862, Hours 8 a.m.–4 p.m., Monday through Friday by appointment only; or, John F. Kennedy Library, 190 West 49th Street, Hialeah, Florida 33012, Phone: 305–821–2700, Hours 12 p.m.–8 p.m., Monday through Thursday, 9 a.m.–5 p.m. Saturday.

FOR FURTHER INFORMATION CONTACT: Shelby Johnston, Remedial Project Manager, Superfund Remedial Section D, Superfund Remedial Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960, 404–562–8287, email: *johnston.shelby@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA Region 4 is publishing this direct final Notice of Deletion of the B&B Chemical Co., Inc. Superfund Site from the NPL. The NPL constitutes Appendix B of 40 CFR part 300 which is the NCP, which EPA promulgated pursuant to section 105 of the CERCLA of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in the Section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if conditions at a deleted site warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective August 5, 2014 unless EPA receives adverse comments by July 7, 2014. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the ''Proposed Rules'' section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria to delete sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the B&B Chemicals Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures apply to deletion of the site:

(1) EPA consulted with the State of Florida before developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the ''Proposed Rules'' section of the **Federal Register**

(2) EPA has provided the state 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the state, through the FDEP, has concurred on the deletion of the site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, Miami Today. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Background and History

B & B Chemical Co., Inc. Superfund Site, (EPA ID: FLD004574190) is located at 875 West 20th Street, Hialeah, Florida 33010. The B&B Chemical Co., Inc. Superfund Site (the Site) is still operational and occupies 5 acres in the industrial area of Hialeah, Miami-Dade County, Florida. B&B Tritech, Inc., formerly B&B Chemical Co., Inc. (B&B) manufactured industrial cleaning compounds at the Site since 1958. The Site is bounded to the north by Highway 934 (Hialeah Expressway), to the east by West 8th Avenue, to the south by West 20th Street, and to the west by the Dade County Metrorail Okeechobee Station and parking garage. Chemicals and products used by the facility include a variety of solvents, polishes, detergents, oxidizing agents, corrosive inhibitors and metal cleaners. In the mid-1970s, inspectors from the Miami-Dade County Department of Environmental Resource Management (DERM) documented wastewater residues in soakage pits at the Site, and subsequently issued a Cease and Desist Order related to wastewater discharge to the soakage pits. In May 1976, B&B put a wastewater pre-treatment system into operation. During a 1979 area-wide ground water study conducted for DERM, two samples were collected from irrigation wells located on the Site. Analytical data from these samples indicated the presence of trans-1,2-dichloroethlyene, tetrachloroethylene, chlorobenzene, 1,1-dichloroethane, vinyl chloride and trichloroethylene. In September 1981, construction workers installing a potable water line immediately south of the B&B site experienced skin irritation. Analytical data from a ground water sample collected in the ditch indicated the presence of phenol, trichoroethylene, tetrachloroethlyene, vinyl chloride, trans-1,2 dichloroethlyene and cis-1,2 dichloroethylene. In June 1982, during the construction of the Metrorail track immediately south of the Site, workers also complained of skin bums while working in the trenches.

In August 1985, at the request of DERM, EPA conducted an investigation at the Site and found benzene, chlorobenzene, vinyl chloride and chromium in the ground water. Results of the 1986 EPA-funded investigation were used to compute a Hazard Ranking System (HRS) score for ground water at the Site. The HRS score exceeded the threshold at which sites would normally be placed on the National Priorities List (NPL). The primary contaminants of concern at the Site include, but are not limited to, benzene, chlorobenzene, vinyl chloride and chromium in the ground water. The Site was proposed for the NPL June 24, 1988 (53 FR 23988) and finalized on the NPL August 30, 1990 (55 FR 35502).

Remedial Investigation, Feasibility Study (RI/FS)

In 1987, B&B completed a Remedial Investigation/Feasibility Study (RI/FS) to determine the type and extent of contamination at the Site. Starting in August 1988, B&B operated a ground-water treatment system on site, in accordance with a Court Order of Stipulated Settlement with DERM. The treatment system operated, with some periods of interruption, until 1993. The B&B RI/FS was determined inadequate based on NCP requirements and thus EPA conducted another investigation. The EPA Remedial Investigation (RI) and Feasibility Study (FS) were conducted between September 13, 1989 and September 12, 1994.

Analytical results of the RI sampling identified at the Site were constituents commonly associated with chemical manufacturing operations that posed a threat to human health and the environment. The primary contaminants of concern (COCs) identified in the 1994 RI/FS included benzene, chlorobenzene, chromium and vinyl chloride in ground water and were selected based on exceedences of State of Florida and federal MCLs for contaminants in the 1992 to 1994 ground-water monitoring period. The feasibility study at the site was focused on the validity of monitored natural attenuation for the ground-water remediation. Ground-water monitoring results revealed a downward trend in the contaminant concentrations which supported the natural attenuation as a viable remedy.

Selected Remedy

EPA's Record of Decision (ROD) was signed on September 12, 1994, and the State of Florida concurred with the selected remedy. The selected alternative included the following:

- Natural attenuation of ground-water contaminants;
- Ground-water monitoring to verify natural attenuation;
- Implementation of institutional controls in the form of a notification agreement between EPA and the landowner to ensure continued integrity of the asphalt cover;

The remedial objective for the B&B Chemical Co., Inc. site was to eliminate potential health hazards due to the impact of vinyl chloride, benzene, chromium and chlorobenzene in the ground water.

Remedy Implementation

The remedy involves the natural attenuation of groundwater contaminants to levels below MCLs. Decreasing trends of groundwater

contaminant concentrations were observed during the 1992 through 1994 monitoring period. These trends gave evidence that natural attenuation would be protective of human health and the environment.

Ground-water monitoring was conducted primarily to verify that natural attenuation of ground-water contamination is occurring. Monitoring consisted of semi-annual sampling of eight existing wells (MWT–31, MWS–06, MWD–07, CDM–02, CDM–03, MWF–27, MWD–29 and MWM–29), selected because of their historical exceedences of MCLs. Each well was sampled semi-annually until the groundwater contaminants decreased to levels below maximum contaminant levels (MCLs) for two consecutive rounds of sampling. Once this occurred, the wells were to be omitted from further semi-annual sampling events. The ROD required the final round of ground-water sampling to include all the monitoring wells at the site and that all contaminants of concern are below MCLs as requested by FDEP at the time the ROD was signed. Ground-water samples were to be analyzed for the analytes on EPA's target compound list, excluding semivolatile compounds, as these compounds were not observed above MCLs during the RI/FS.

On July 17, 2013 a restrictive covenant was filed to comply with the remedy component. The restrictive covenant states that the entire property is restricted to future use of commercial or industrial, that the potential for vapor intrusion into any newly constructed buildings is evaluated and properly addressed before construction, and that maintenance and inspection of all paved areas and building foundations in the areas for which the soil contamination levels did not meet the criteria for unlimited use is required yearly. All institutional controls have been implemented.

Cleanup Goals

Post-ROD ground-water sampling was initiated in December 1995. Sampling continued on a semi-annual basis until 2007. After reviewing the results of the 2007 ground-water sampling, FDEP and EPA determined that the cleanup goals specified in the 1994 ROD had been met and that there was no need to continue with regular, semi-annual sampling of the monitoring wells. Further, upon consultation with FDEP, EPA issued the 2009 Explanation of Significant Difference (ESD) that removed the requirement for a final round of ground-water sampling.

Explanation of Significant Difference

The selected remedy was revised by the June 2009 ESD. The 2009 ESD removed the 1994 ROD requirement for a final round of ground-water sampling, this requirement was removed because performance standards were met for all monitoring wells in two consecutive rounds of sampling and FDEP concurred that the additional sampling was not necessary. In addition the 2009 ESD further outlined the requirements for the institutional controls to ensure the remedy remains protective.

The 2009 ESD required restrictive covenants be placed on the site properties to:

- Ensure that the integrity of existing impermeable surfaces is maintained.
- Ensure that future use of the property remains commercial or industrial.
- Ensure that the potential for vapor intrusion into any newly constructed buildings is evaluated and properly addressed.

By maintaining the integrity of the existing impermeable surfaces and requiring the evaluation of vapor intrusion prior to and after construction of any new buildings on site the long term protectiveness can be sustained.

Five-Year Reviews

The first five-year review was completed on October 24, 2001 and the second was signed on April 26, 2007. These reviews concluded that the selected remedy remains protective of human health and the environment.

The third statutory five-year review was signed on August 9, 2012 pursuant to EPA's *Comprehensive Five-Year Review Guidance* (OSWER No. 9355.7–03B–P, June 2001). The five-year review concluded that remedial actions at the B&B Chemical Co., Inc. Superfund Site are protective, in the short-term, of human health and the environment, and exposure pathways that could result in unacceptable risks are being controlled in the long term by the required restrictive covenants. On July 17, 2013 a restrictive covenant was filed to restrict the Site in the Clerk of Courts, Recorder's Office, Miami-Dade County, Florida, at Deed Book 438, pages 341–345. All institutional controls have been implemented.

Because hazardous materials remain at the Site below the pavement at levels above those that allow for unlimited use and unrestricted exposure, Section 121 of CERCLA requires ongoing statutory review to be conducted no less than every five years from the start of remedial actions. The next five-year review will be completed by August 2017.

Community Involvement

Throughout the removal and remedial process, EPA has kept the public informed of the activities being conducted at the Site by way of public meetings, progress fact sheets, and the announcement through local newspaper advertisement on the availability of documents such as the RI/FS, Risk Assessment, ROD, Proposed Plan, ESD and five-year reviews.

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories identified above.

Determination That the Site Meets the Criteria for Deletion From the NCP

This Site meets all the site completion requirements as specified in Office of Solid Waste and Emergency Response (OSWER) Directive 9320.22, *Close Out Procedures for National Priorities List Sites.* Specifically, confirmatory ground-water sampling verifies that the Site has achieved the ROD cleanup standards, and that all cleanup actions specified in the ROD and ESD have been implemented.

V. Deletion Action

The EPA, with concurrence of the State of Florida through the FDEP, has determined that all appropriate response actions under CERCLA, other than maintenance of the pavement and five-year reviews have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective *August 5, 2014* unless EPA receives adverse comments by *July 7, 2014.* If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping

requirements, Superfund, Water pollution control, Water supply.

Dated: April 15, 2014.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended by removing the entry for ''FL'', ''B&B Chemical Co., Inc'', ''Hialeah''.

[FR Doc. 2014–13210 Filed 6–5–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2009–0044; 4500030113]

RIN 1018–AW86

Endangered and Threatened Wildlife and Plants; Designating Critical Habitat for the California Tiger Salamander; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; Correction.

SUMMARY: We, the U.S. Fish and Wildlife Service, published a final rule in the **Federal Register** on August 31, 2011, that designated critical habitat for the Sonoma County population of the California tiger salamander. Inadvertently, we made an error in our amendatory instructions, which resulted in an error in the Code of Federal Regulations. With this document, we correct our error.

DATES: Effective June 6, 2014.

FOR FURTHER INFORMATION CONTACT: Susan Wilkinson, (703) 358–2506.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, recently became aware that, in part 17 of title 50 of the Code of Federal Regulations (CFR), we have two entries for the Sonoma County distinct population segment of the California tiger salamander. This error in § 17.95(d) is the result of an incorrect amendatory instruction that published in a 2011 final rule. This document corrects the error in 50 CFR 17.95(d).

Proposed and Final Rules

In a proposed rule that published August 18, 2009 (74 FR 41662), the third amendatory instruction reads as follows:

''3. Amend § 17.95(d) by revising critical habitat for the California tiger salamander *(Ambystoma californiense)* in Sonoma County to read as follows:''

However, in the final rule that published August 31, 2011 (76 FR 54346), the third amendatory instruction reads like this:

''3. In § 17.95, amend paragraph (d) by adding an entry for ''California Tiger Salamander *(Ambystoma californiense)* in Sonoma County'' in the same order that the species appears in the table at § 17.11(h), to read as follows:''

The proposed rule was correct in using the word ''revising,'' as a critical habitat designation already existed for the Sonoma County distinct population segment of the California tiger salamander as the result of a final rule of December 14, 2005 (70 FR 74137). The August 31, 2011, final rule erroneously used the word ''adding,'' which resulted in an additional critical habitat entry being added to the CFR instead of replacing the entry that was already there. Therefore, with this document, we remove from 50 CFR 17.95(d) the entry pertaining to the California tiger salamander in Sonoma County, CA, that was added to the CFR following the 2005 final rule and which should have been removed in 2011.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

For the reasons given in the preamble, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

§ 17.95 [Amended]

■ 2. Amend § 17.95(d) by removing the words ''California Tiger Salamander in Sonoma County—Pursuant to section 4(b)(2) of the Act, we have excluded all areas determined to meet the definition of critical habitat under section 4(b)(2) of the Act for California tiger salamander in Sonoma County. Therefore, no specific areas are designated as critical habitat for this species.''.

Susan L. Wilkinson,

Alternate Federal Register Liaison, U.S. Fish and Wildlife Service.

[FR Doc. 2014–13204 Filed 6–5–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

[Docket No. FWS–R9–IA–2010–0083; 96300–1671–0000–R4]

RIN 1018–AW82

Revision of Regulations Implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Updates Following the Fifteenth Meeting of the Conference of the Parties to CITES; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; Correction.

SUMMARY: We, the U.S. Fish and Wildlife Service, are correcting a final rule published in the **Federal Register** on May 27, 2014, to revise the regulations that implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) by incorporating certain provisions adopted at the fourteenth and fifteenth meetings of the Conference of the Parties (CoP14 and CoP15) to CITES and to clarify and update certain other provisions. In that rule, one of our amendatory instructions was incorrect. This action makes the necessary correction.

DATES: This correction is effective June 6, 2014.

FOR FURTHER INFORMATION CONTACT: Robert R. Gabel, Chief, Division of Management Authority; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive; Suite 212; Arlington, VA 22203 (telephone, (703) 358–2093; fax, (703) 358–2280).

SUPPLEMENTARY INFORMATION: In a final rule that published in the **Federal Register** on May 27, 2014, at 79 FR 30400, the following correction is made:

§ 23.23 [Corrected]

■ 1. On page 30422, in the second column, for § 23.23 What information is required on U.S. and foreign CITES documents?, in amendment 21,

instruction 21.g., ''Revising paragraph (c)(13)(i)(B) to read as set forth below;'' is corrected to read, ''Adding paragraph (c)(13)(i)(B) to read as set forth below;''.

Dated: June 2, 2014.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2014–13144 Filed 6–5–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 131120978–4452–02]

RIN 0648–BD80

Takes of Marine Mammals Incidental to Specified Activities; U.S. Navy Missile Launches From San Nicolas Island, California

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

ACTION: Final rule.

SUMMARY: Upon application from the U.S. Navy (Navy), Naval Air Warfare Center Weapons Division (NAWCWD), we (the National Marine Fisheries Service) are issuing regulations under the Marine Mammal Protection Act (MMPA) to govern the unintentional taking of marine mammals incidental to missile launches from San Nicolas Island (SNI) from June 2014 through June 2019. These regulations allows us to issue a Letter of Authorization (LOA) for the incidental take of marine mammals during the Navy's specified activities and timeframes, set forth the permissible methods of taking, set forth other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, and set forth requirements pertaining to the monitoring and reporting of the incidental take.

DATES: Effective June 3, 2014, through June 3, 2019.

ADDRESSES: To obtain an electronic copy of the Navy's application or other referenced documents, visit the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: John Fiorentino, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

The National Defense Authorization Act of 2004 (NDAA) (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity'' to read as follows (Section 3(18)(B) of the MMPA): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

On July 24, 2013, NMFS received an application from the Navy for the taking of marine mammals incidental to missile launches from San Nicolas Island (SNI), California. NMFS determined that the application was adequate and complete on November 18, 2013.

The Navy proposed to continue a launch program for missiles and targets from several launch sites on SNI between June 2014 and June 2019. These activities are considered military readiness activities. Marine mammals hauled out on SNI may be exposed to sound from missile launches. The Navy requests authorization to take three marine mammal species by Level B harassment: northern elephant seal (*Mirounga angustirostris*), Pacific harbor seal (*Phoca vitulina*), and California sea lion (*Zalophus californianus*).

The Navy is currently operating under an authorization to take marine mammals incidental to missile launches from SNI, which expires June 3, 2014 (74 FR 26587).

Description of the Specified Activity

Overview

The Navy is continuing a launch program for missiles and targets from several launch sites on SNI. Missiles vary from tactical and developmental weapons to target missiles used to test defensive strategies and other weapons systems. Some launch events involve a single missile, while others involve the launch of multiple missiles either in quick succession or at intervals of a few hours. Up to 200 missiles (40 missiles per year) may be launched over the 5-year period, but the number and type of launch varies depending on operational needs.

The purpose of these launches is to support testing and training activities associated with operations on the NAWCWD Point Mugu Sea Range. The Sea Range is used by the U.S. and allied military services to test and evaluate sea, land, and air weapon systems; to provide realistic training opportunities; and to maintain operational readiness of these forces. Some of the launches are used for practicing defensive drills against the types of weapons simulated by these missiles and some launches are conducted for the related purpose of testing new types of targets.

Dates and Duration

Launches of this type have been occurring at SNI for many years and are expected to continue indefinitely into the future. NMFS is issuing a 5-year Letter of Authorization for missile launches taking place between June 2014 and June 2019. The timing of these launches is variable and subject to testing and training requirements and meteorological and logistical limitations. To meet the Navy's operational testing and training requirements, launches may be required at any time of year and any time of day. Up to 200 missiles (40 missiles per year) may be launched over the 5-year period

and the Navy is proposing that up to 10 launches per year may occur at night. Given the launch acceleration and flight speed of the missiles, most launch events are of extremely short duration. Strong launch sounds are typically detectable near the surrounding beaches for no more than a few seconds per launch (Holst *et al.,* 2005a, 2008, 2011).

Specified Geographic Region

SNI is one of the eight Channel Islands in the Southern California Bight, located about 105 kilometers (km) southwest of Point Mugu. Missile launches will occur from the western part of SNI (see Figure 2 in the Navy's LOA application). The missiles fly generally westward through the Point Mugu Sea Range. The primary launch locations are the Alpha Launch Complex, which is located on the west-central part of SNI, and Building 807 Launch Complex, which is located at the western end of SNI. Other launch pads are located nearby.

Detailed Description of Activities

Missiles included in the Navy's request range from relatively small and quieter missiles like the Rolling Airframe Missile to larger and louder missiles like the Terrier Black-Brant. While other missiles may be launched in the future, the largest missile analyzed here is 23,000 kilograms (kg). A description of the types of missiles that may be launched at SNI during the 5-year period and their sound characteristics was provided in the proposed rule (79 FR 13022, March 7, 2014) and includes, in summary: the Rolling Airframe Missile (RAM), GQM–163A ''Coyote,'' Multi-stage Sea Skimming Target (MSST), Terrier (Black Brant, Lynx, and Orion), and RIM–161 Standard Missile 3 (SM–3).

General Launch Operations—Aircraft and helicopter flights between the Point Mugu airfield on the mainland, the airfield on SNI, and the target sites in the Sea Range are a routine part of a planned launch operation. These flights generally do not pass at low level over the beaches where pinnipeds are expected to be hauled out. Therefore, these flights are not further considered in this document.

Movements of personnel are restricted near the launch sites at least several hours prior to a launch for safety reasons. No personnel are allowed on the western end of SNI during launches. Movements of personnel or missiles near the island's beaches are also restricted at other times of the year for purposes of environmental protection and preservation of cultural resource sites. Launch monitoring equipment would be deployed and activated prior to the launches.

Comments and Responses

On March 7, 2014 (79 FR 13022), NMFS published a proposed rule to authorize the taking of marine mammals incidental to missile launches at SNI. During the 45-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission) and a private citizen. The Commission's comment is specific to section 101(a)(5)(A) of the MMPA and NMFS' analysis of impacts to marine mammals and is summarized and addressed below and throughout the final rule.

Comment 1: The Commission recommended that NMFS require the Navy to estimate the number of sea lion takes based on the greatest mean number of takes that has been estimated in any previous monitoring year multiplied by 40.

Response: NMFS agrees that the potential number of annual launches (40) should be considered when estimating take in order to ensure that the Navy remains in compliance with the MMPA. NMFS reassessed the take estimates for California sea lion by calculating the annual average number of takes per launch and multiplying each average by 40. This total (24,360) is the number of California sea lions takes NMFS is authorizing over the 5-year rule (an average of 4,872 takes per year). This is the maximum number of takes expected, considering the Navy only conducted 42 launches over the past 5 years.

Comment 2: A private citizen recommended that the Navy submit annual reports describing non-compliance, if any, with required mitigation measures—including frequency of occurrence, date of occurrence, and reason for occurrence of non-compliance.

Response: It is standard practice for the Navy to include this type of information in their summary of implementation of mitigation measures in the annual interim technical reports and comprehensive technical reports submitted to NMFS. These reports are available on the NMFS Office of Protected Resources Web site at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*.

Description of Marine Mammals in the Area of the Specified Activity

There are seven species of marine mammals with possible or confirmed occurrence in the area of the specified activity: Northern elephant seals, harbor seals, California sea lions, northern fur seals (*Callorhinus ursinus*), Guadalupe fur seal (*Arctocephalus townsendi*), Steller sea lions (*Eumetopias jubatus*), and southern sea otters (*Enhydra lutris nereis*). The northern fur seal is considered depleted under the MMPA; the Guadalupe fur seal is listed as threatened under the Endangered Species Act (ESA) and depleted under the MMPA; and the eastern distinct population segment of Steller sea lion was delisted under the ESA in 2013. The northern fur seal, Guadalupe fur seal, and Steller sea lion are considered rare at SNI and takes of these species have not been observed under the Navy's current MMPA authorization. Therefore, these three species were not considered further. The southern sea otter is managed by the U.S. Fish and Wildlife Service and was also not considered further. Table 1 includes species-specific information on the three species likely to occur in the area of the specified activity.

TABLE 1—SPECIES INFORMATION ON THE MARINE MAMMALS LIKELY TO OCCUR IN THE AREA OF THE SPECIFIED ACTIVITY

Common name	Scientific name	Status	Occurrence	Seasonality	Range	Abundance
Northern elephant sea	*Mirounga angustirostris*		Common	Year-round	Mexico to Alaska	124,000
Harbor seal	*Phoca vitulina*		Common	Year-round	Baja California to Aleutian Islands.	30,196
California sea lion	*Zalophus californianus*		Common	Year-round	Mexico to Canada	296,750

Further information on the biology and local distribution of these species can be found in the Navy's application (see **ADDRESSES**), and the NMFS Marine Mammal Stock Assessment Reports, which are available online at: *http://www.nmfs.noaa.gov/pr/species/*.

Potential Effects of the Specified Activity on Marine Mammals

This section of the proposed Incidental Harassment Authorization (IHA) (79 FR 13022, March 7, 2014) included a summary and discussion of the ways that the types of stressors associated with the specified activity (e.g., missile launch noise) have been observed to impact marine mammals. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Proposed Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

In summary, potential effects of the specified activity on marine mammals involve both acoustic and non-acoustic effects. Acoustic effects are related to sound produced by the engines of all launch vehicles, and, in some cases, their booster rockets. Potential non-acoustic effects could result from the physical presence of personnel during placement of video and acoustical monitoring equipment. However, careful deployment of monitoring equipment is not expected to result in any disturbance to pinnipeds hauled out nearby. Any visual disturbance caused by passage of a vehicle overhead is likely to be minor and brief as the launch vehicles are relatively small and move at great speed. Detailed information on each potential effect (acoustic impacts, behavioral reactions of pinnipeds to missile launches, stampede-related injury or mortality from missile launches) was provided in the proposed rule (79 FR 13022, March 7, 2014) and that information has not changed.

Anticipated Effects on Marine Mammal Habitat

Three species of pinnipeds use various beaches around SNI as places to rest, molt, and breed. These beaches consist of sand, rock ledges, and rocky cobble. Pinnipeds continue to use beaches around the western end of SNI, and are expanding their use of some beaches, despite ongoing launch activities for many years. Similarly, it appears that sounds from prior launches have not affected use of coastal areas at Vandenberg Air Force Base where similar missile launches occur.

Pinnipeds do not feed when hauled out on these beaches and the airborne launch sounds will not persist in the water near the island for more than a few seconds. Therefore, it is not expected that the launch activities will have any impact on the food or feeding success of these pinnipeds.

Boosters from missiles may be jettisoned shortly after launch and fall on the island, but are not expected to impact beaches. Fuel contained in these boosters is consumed rapidly and completely, so there would be no risk of contamination even in the very unlikely event that a booster did land on a beach. Therefore, launch activities are not expected to have any long-term, significant effects on marine mammal habitat.

Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

The NDAA of 2004 amended the MMPA as it relates to military-readiness activities and the ITA process such that ''least practicable adverse impact'' shall include consideration of personnel safety, practicality of implementation, and impact of the effectiveness of the ''military readiness activity.'' The activities described in the Navy's application are considered military readiness activities.

As during launches conducted under previous regulations, where practicable, the Navy will implement the following mitigation measures, provided that doing so will not compromise operational safety, human safety, national security, or other requirements or mission goals:

(1) Limit activities near the beaches in advance of launches;

(2) Avoid launch activities during harbor seal pupping season (February through April);

(3) Limit launch activities during other pinniped pupping seasons;

(4) Not launch missiles from the Alpha Complex at low elevation (less than 305 m) on launch azimuths that pass close to pinniped haul-out sites when occupied;

(5) Avoid launching multiple missiles in quick succession over haul-out sites, especially when young pups are present; and

(6) Maintain a minimum altitude of 305 m from pinniped haul-outs and rookeries for aircraft and helicopter flight paths during missile launch operations, except in emergencies or for real-time security incidents (e.g., search-and-rescue, fire-fighting, adverse weather conditions), which may require approaching pinniped haul-outs and rookeries closer than 305 m.

Mitigation Conclusions

NMFS has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. No additional mitigation measures were recommended during the public comment period on the proposed rule. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation, including consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of noise, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of

noise, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of noise, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing the severity of harassment takes only).

5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, while also considering personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth, ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. The Navy submitted a marine mammal monitoring plan as part of their application. It can be found in section 13 of their application. NMFS did not receive any comments suggesting a modification or supplementation to the proposed monitoring plan during the public comment period.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below.

2. An increase in our understanding of how many marine mammals are likely to be exposed to levels of noise that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS.

3. An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

a. Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information).

b. Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information).

c. Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli.

4. An increased knowledge of the affected species.

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Monitoring Measures

The Navy will conduct the following monitoring measures, which are further detailed in section 13 of their application:

• The Navy will continue a standard, ongoing, land-based monitoring program to assess effects on harbor seals, northern elephant seals, and California sea lions on SNI. This monitoring will occur at up to three sites at different distances from the launch site before, during, and after each launch, depending upon presence of pinnipeds during each launch. The monitoring will be via autonomous video or Forward Looking Infrared (FLIR) cameras. Pinniped behavior on the beach will be documented prior to the planned launch operations, during the launch, and following the launch. Northern elephant seals will not be specifically targeted for monitoring, though may be present in the field of view when monitoring other species.

• During each launch, the Navy will obtain calibrated recordings of the sounds of the launches as received at different distances from the missile's flightline. The Navy anticipates that acoustic data will be acquired at each video monitoring location, to estimate sounds received by pinnipeds, and at the launch site to estimate maximum potential sound received. These recordings will provide for a thorough description of launch sounds as received at different locations on western SNI, and of the factors that affect received sound levels. By analysis of the paired data on behavioral observations and received sound levels, the Navy will further characterize the relationship between the two. If there is a clear correlation, the Navy will determine the ''dose-response'' relationship.

Visual Monitoring—The Navy will conduct marine mammal and acoustic monitoring during launches from SNI, using simultaneous video recording of pinniped behavior and audio recording of launch sounds. The land-based monitoring will provide data required to characterize the extent and nature of the takes. In particular, the monitoring will provide the information needed to document the occurrence, nature, frequency, and duration of any changes in pinniped behavior that might result from missile launches. Components of this documentation will include the following:

• Identify and document any change in behavior or movements that may occur at the time of the launch;

• Compare received levels of launch sound with pinniped responses, based on acoustic and behavioral data from up to three monitoring sites at different distances from the launch site and missile path during each launch and attempt to establish the dose-response relationship for launch sounds under different launch conditions;

• Ascertain periods or launch conditions when pinnipeds are most and least responsive to launch activities; and

• Document take by harassment and, although unlikely, any mortality or injury.

The launch monitoring program will include remote video recordings before, during, and after launches when pinnipeds are present in the area of potential impact, and visual assessment by trained observers before and after the launch. Remote cameras are essential during launches because safety rules

prevent personnel from being present in most of the areas of interest. In addition, video techniques will allow simultaneous observations at up to three different locations, and will provide a permanent record that could be reviewed in detail. No specific effort will be made to monitor elephant seals, though they may be present in mixed groups when monitoring other species.

Acoustical Monitoring—The Navy will take acoustical recordings during each monitored launch. These recordings should be suitable for quantitative analysis of the levels and characteristics of the received launch sounds. The Navy will use up to four autonomous audio recorders to make acoustical measurements. During each launch, these will be located as close as practical to monitored pinniped haul-out sites and near the launch pad itself. The monitored haul-out sites will typically include one site as close as possible to the missile's planned flight path and one or two locations farther from the flight path within the area of potential impact with pinnipeds present.

Reporting Measures

The Navy will submit annual interim technical reports to NMFS no later than December 31 for the duration of the regulations. These reports will provide full documentation of methods, results, and interpretation pertaining to all monitoring tasks for launches during each calendar year. However, only preliminary information will be included for any launches during the 60-day period immediately preceding submission.

The Navy will submit a draft comprehensive technical report to NMFS 180 days prior to the expiration of the regulations, providing full documentation of the methods, results, and interpretation of all monitoring tasks for launches to date. A revised final comprehensive technical report, including all monitoring results during the entire period of the regulations will be due 90 days after the regulations expire.

The Navy will ensure that NMFS is notified immediately if an injured or dead marine mammal is judged to result from launch activities at any time.

Monitoring Results From Previously Authorized Activities

Between 2001 and 2012, a maximum of 1,990 California sea lions, 395 harbor seals, and 130 northern elephant seals were estimated to have been potentially harassed in any single monitoring year incidental to missile launches at SNI (Holst *et al.,* 2008, 2010, 2011; Ugoretz and Greene, 2012). These numbers may represent multiple exposures of single animals, as beaches were monitored repeatedly over the course of the year during numerous launches. However, some animals that displayed behavioral reactions may have been missed, as not all areas can be monitored during the launches. Pinnipeds that were potentially affected left the haul-out site in response to the launch, left the water at a vigorous pace, or exhibited prolonged movement or behavioral changes relative to their behavior immediately prior to the launch.

Estimated Take by Incidental Harassment

The NDAA of 2004 (Pub. L. 103–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity'' to read as follows (section 3(18)(B) of the MMPA): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Any takes of marine mammals are most likely to result from operational noise as launch missiles pass near haul-out sites, and/or associated visual cues. This section estimates maximum potential take and the likely annual take of marine mammal species during missile launches at SNI.

The launch sounds could be received for several seconds and, to be conservative, are considered to be prolonged rather than transient sounds. Given the variety of responses documented previously for the sounds of man-made activities lasting several seconds, a sound exposure level of 100 dB re 20 microPascals ^{2} per second is considered appropriate as a disturbance criterion for pinnipeds hauled out at the west end of SNI, particularly for California sea lions and northern elephant seals. Some pinnipeds that haul-out on the western end of SNI are expected to be within the area where sound exposure levels exceed 100 dB. Far fewer pinnipeds are expected to occur within this area and none of the recorded sound exposure levels appear to be high enough to induce TTS.

Based on the reaction criterion, the distance to which it is assumed to extend, and the estimated numbers of pinnipeds exposed to sound exposure levels at or above 100 dB, the Navy estimated the number of pinnipeds on the west end of SNI that might be taken. The Navy made an additional adjustment for harbor seals, as they are known to sometimes react strongly to sound exposure levels below 100 dB. The Navy considered the percentage of animals that actually responded to launch noise in previous monitoring years in order to estimate the number of animals potentially harassed. Recorded sound exposure levels in different areas of SNI were compared to ground-based census data of pinnipeds. These censuses were typically conducted seasonally when maximum numbers of pinnipeds were known to occur on land.

Northern Elephant Seal

To estimate the potential maximum numbers of northern elephant seals that might be exposed to sound levels at or above 100 dB in 2014, the highest pup counts within map areas K, L, and M (see Figure 16 of the Navy's application) in any year between 2000 and 2010 were used (yielding a total of 1,854), and a continuing growth rate of 7.3 percent since 2010 was applied. This results in a maximum potential pup count of 2,458 for those map areas in 2014. Based on data collected from 1988 to 2010, the total count of all age classes expected to be hauled out is approximately twice the number of pups hauled out. Therefore, the maximum number hauled out in areas of potential impact for 2014 was approximated by doubling the maximum potential calculated pup count. Thus, the maximum expected number of elephant seals that may be exposed to sound levels at or above 100 dB during 2014 is estimated to be 4,916.

In the absence of any contrary data, it is assumed that elephant seals exhibit high site fidelity when they return to shore, and that the 4,916 elephant seals calculated above represent the maximum total number that might be exposed to ''strong'' (at or above 100 dB) sounds during the year, assuming missiles are launched when all animals are hauled out and all beaches within the area receive strong sounds. If some seals haul out on different beaches at various times during the year, sometimes within and sometimes outside the area exposed to levels at or above 100 dB, then the number of times an individual elephant seal might be exposed to strong launch sounds would be reduced. However, the total number of individuals that would be exposed at

least once over the course of the year would probably be increased. Movements from one beach to another may be more likely for juveniles than for older seals, given that this has been observed in other pinniped species (such as for harbor seal pups; Thompson *et al.* 1994).

Published studies and results from the 2001–2012 monitoring at SNI indicate that elephant seals are more tolerant of transient noise and other forms of disturbance than are California sea lions or harbor seals. If so, the actual impact zone is smaller than assumed here, and the number of elephant seals that might be taken by harassment would be substantially lower than the number of seals present within the area where sound levels are at or above 100 dB. For example, during the 2001–2012 launch program, the majority of northern elephant seals did not exhibit more than brief startle reactions in response to launches (Holst *et al.* 2005, 2008, 2010, 2011; Ugoretz and Greene, 2012). Most individuals merely raised their heads briefly upon hearing the launch sounds and then quickly returned to their previous activity pattern (usually sleeping). During some launches, a small proportion (typically much less than 10 percent) of northern elephant seals moved a short distance (<10 m) away from their resting site, but settled within minutes. Elephant seals rarely moved or reacted more than this.

Therefore, the Navy estimates that up to 10 percent of 4,916 elephant seals (or 492 seals) might be taken by Level B harassment during each year of planned launch operations.

Harbor Seals

To determine the potential numbers of harbor seals that might be taken by harassment, the Navy used the maximum total harbor seal count for SNI (858) and assumed that the population has remained relatively stable. Previous monitoring from 2001–2012 showed that most monitored harbor seals entered the water in response to launches. Previous monitoring also indicates that about 70 percent of harbor seals that haul out on SNI use the beaches within areas K, L, and M. The Navy conservatively estimates that 80 percent of harbor seals on SNI may be impacted by missile launches. Therefore, the Navy estimates that a maximum of 686 harbor seals might be taken by Level B harassment during a 1-year period.

California Sea Lion

To estimate the maximum potential number of sea lions that might be hauled out within areas exposed to sound levels at or above 100 dB, the Navy calculated the maximum number of sea lions occurring within map areas K, L, and M (Figure 16 of the Navy's application) in any year from 2001–2011. The Navy adjusted this maximum, 14,963 sea lions, for a population growth rate of 5.6 percent per year, which results in a maximum of 20,749 sea lions of all ages and sexes that might be hauled out within the areas exposed to sound levels at or above 100 dB in a single year. For most of the year, only females and pups are expected to be ashore, so the number of animals exposed to these sound levels from any one launch is likely less than the estimated total number.

Based on past monitoring, the Navy concluded that approximately 10 percent of the California sea lions exposed to launch sounds during each year of launch activity might exhibit behavioral disturbance. Therefore, the Navy estimated that a maximum of 2,740 California sea lions on SNI might be taken by Level B harassment during a 1-year period. However, based on the Commission's comment during the proposed rule public comment period, NMFS agreed that the maximum number of annual launches (40) should also be a factor when estimating take. NMFS used the Navy's draft comprehensive monitoring report to calculate the annual average of potential takes per launch. Then, each average was multiplied by 40 and summed to get 24,360 takes over a 5-year period. NMFS estimates that an average of 4,872 takes of California sea lions may occur each year.

Summary

NMFS is authorizing take according to the Navy's estimates and also considering monitoring results from the past 5 years and the potential for up to 40 launches to occur each year. The estimated take numbers are provided in Table 2 below for each marine mammal species. These take estimates do not take mitigation measures into consideration.

TABLE 2—ESTIMATED AND AUTHORIZED TAKE OF MARINE MAMMALS ON AN ANNUAL BASIS

Common species name	Estimated take by Level B harassment	Abundance of stock	Population trend
Northern elephant seal	492	124,000	Unknown.
Harbor seal	686	30,196	Stable.
California sea lion	4,872	296,750	Increasing.

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

NMFS has determined that target and missile launch activities and aircraft and helicopter operations from SNI, as described in this document and in the Navy's application, will result in no more than Level B harassment of northern elephant seals, harbor seals, and California sea lions. The effects of these military readiness activities will be limited to short-term, localized changes in behavior, including temporarily vacating haul-outs, and possible temporary threshold shift in

the hearing of any pinnipeds that are in close proximity to a launch pad at the time of a launch. These effects are not likely to have a significant or long-term impact on feeding, breeding, or other important biological functions. No take by injury or mortality is anticipated, and the potential for permanent hearing impairment is unlikely. Furthermore, during 5 years of monitoring under the Navy's current authorization, there was no evidence of injury, mortality, pup abandonment, or other significant impact beyond behavioral harassment during or immediately succeeding any of the 33 launches. No known pinniped injuries or mortalities have occurred since monitoring began in 2001, and few, if any, pinnipeds are believed to have received sound levels strong enough to elicit TTS.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total marine mammal take from the Navy's missile launches will have a negligible impact on the affected marine mammal species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will not have any unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

No species listed under the ESA are expected to be affected by these activities. Therefore, NMFS has determined that a section 7 consultation under the ESA is not required.

National Environmental Policy Act (NEPA)

NMFS prepared an Environmental Assessment (EA) analyzing the potential issuance of regulations and an LOA to the Navy for the period 2014–2019. The final EA was prepared in May 2014 and NMFS issued a Finding of No Significant Impact for this action. These documents are available on our Web site at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.* NMFS determined that issuance of the rulemaking and subsequent LOA will not significantly impact the quality of the human environment and that preparation of an Environmental Impact Statement is not required.

Classification

The Office of Management and Budget has determined that this proposed rule is not significant for purposes of Executive Order 12866.

Pursuant to the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this action will not have a significant economic impact on a substantial number of small entities. NMFS did not receive any public comments addressing this certification. Therefore, a Final Initial Regulatory Flexibility Analysis is not required and none has been prepared.

The Assistant Administrator for Fisheries has determined that there is good cause under the Administrative Procedure Act (5 U.S.C 553(d)(3)) to waive the 30-day delay in the effective date of the measures contained in the final rule. The existing regulations for SNI expire June 3, 2014 and launches may be scheduled soon after. Any delay of enacting the final rule would result in the Navy's non-compliance with the MMPA (should the Navy conduct missile launches without an LOA), thereby resulting in the potential for unauthorized takes of marine mammals. Moreover, the Navy is ready to implement the rule immediately. For these reasons, the Assistant Administrator finds good cause to waive the 30-day delay in the effective date.

List of Subjects in 50 CFR Part 217

Exports, Fish, Imports, Incidental take, Indians, Labeling, Marine mammals, Navy, Penalties, Reporting and recordkeeping requirements, Seafood, Sonar, Transportation.

Dated: June 2, 2014.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 217 is amended as follows:

PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. Subpart F is added to part 217 to read as follows:

Subpart F—Taking of Marine Mammals Incidental To Target and Missile Launch Activities From San Nicolas Island, CA

Sec.

217.50 Specified activity and specified geographical region.
217.51 Effective dates.
217.52 Permissible methods of taking.
217.53 Prohibitions.
217.54 Mitigation.
217.55 Requirements for monitoring and reporting.
217.56 Applications for Letters of Authorization.
217.57 Letters of Authorization.
217.58 Renewal and modifications of Letters of Authorization.

Subpart F—Taking of Marine Mammals Incidental To Target and Missile Launch Activities From San Nicolas Island, CA

§ 217.50 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the incidental taking of marine mammals specified in paragraph (b) of this section by the Naval Air Warfare Center Weapons Division, U.S. Navy, and those persons it authorizes to engage in target missile launch activities and associated aircraft and helicopter operations at the Naval Air Warfare Center Weapons Division facilities on San Nicolas Island, California.

(b) The incidental take of marine mammals under the activity identified in paragraph (a) of this section is limited to the following species: Northern elephant seals (*Mirounga angustirostris*), harbor seals (*Phoca vitulina*), and California sea lions (*Zalophus californianus*).

(c) This Authorization is valid only for activities associated with the launching of a total of 40 vehicles (e.g., RAM, Coyote, MSST, Terrier, SM–3, or similar) from Alpha Launch Complex and smaller missiles and targets from Building 807 on San Nicolas Island, California.

§ 217.51 Effective dates.

Regulations in this subpart are effective from June 3, 2014, through June 3, 2019.

§ 217.52 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to § 216.106 and 217.57 of this chapter, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals by harassment, within the area described in § 217.50, provided the activity is in compliance with all terms, conditions, and requirements of the regulations and the appropriate Letter of Authorization.

(b) The activities identified in § 217.50 must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals is authorized for the species listed in § 217.50(b) and is limited to Level B Harassment.

§ 217.53 Prohibitions.

Notwithstanding takings contemplated in § 217.50 and authorized by a Letter of Authorization issued under §§ 216.106 and 217.57 of this chapter, no person in connection with the activities described in § 217.50 may:

(a) Take any marine mammal not specified in § 217.50(b);

(b) Take any marine mammal specified in § 217.50(b) other than by incidental, unintentional harassment;

(c) Take a marine mammal specified in § 217.50(b) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under §§ 216.106 and 217.57 of this chapter.

§ 217.54 Mitigation.

(a) When conducting operations identified in § 217.50(c), the mitigation measures contained in the Letter of Authorization issued under §§ 216.106 and 217.57 must be implemented. These mitigation measures include, but are not limited to:

(1) The holder of the Letter of Authorization must not enter pinniped haul-out sites below the missile's predicted flight path for 2 hours prior to planned missile launches.

(2) The holder of the Letter of Authorization must avoid, whenever possible, launch activities during harbor seal pupping season (February to April), unless constrained by factors including, but not limited to, human safety, national security, or for vehicle launch trajectory necessary to meet mission objectives.

(3) The holder of the Letter of Authorization must limit, whenever possible, launch activities during other pinniped pupping seasons, unless constrained by factors including, but not limited to, human safety, national security, or for vehicle launch trajectory necessary to meet mission objectives.

(4) The holder of the Letter of Authorization must not launch vehicles from the Alpha Complex at low elevation (less than 1,000 feet (305 m)) on launch azimuths that pass close to pinniped haul-out sites when occupied.

(5) The holder of the Letter of Authorization must avoid, where practicable, launching multiple target missiles in quick succession over haul-out sites, especially when young pups are present.

(6) The holder of the Letter of Authorization must limit launch activities during nighttime hours, except when required by the test objectives.

(7) Aircraft and helicopter flight paths must maintain a minimum altitude of 1,000 feet (305 m) from pinniped haul-outs and rookeries, except in emergencies or for real-time security incidents (e.g., search-and-rescue, fire-fighting), which may require approaching pinniped haul-outs and rookeries closer than 1,000 feet (305 m).

(8) If post-launch surveys determine that an injurious or lethal take of a marine mammal has occurred or there is an indication that the distribution, size, or productivity of the potentially affected pinniped populations has been affected, the launch procedure and the monitoring methods must be reviewed, in cooperation with NMFS, and, if necessary, appropriate changes must be made through modification to a Letter of Authorization, prior to conducting the next launch of the same vehicle under that Letter of Authorization.

(9) Additional mitigation measures as contained in a Letter of Authorization.

(b) [Reserved]

§ 217.55 Requirements for monitoring and reporting.

(a) Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Administrator, West Coast Region, NMFS, by letter or telephone, at least 2 weeks prior to activities possibly involving the taking of marine mammals. If the authorized activity identified in § 217.50 is thought to have resulted in the mortality or injury of any marine mammals or in any take of marine mammals not identified in § 217.50(b), then the Holder of the Letter of Authorization must notify the Director, Office of Protected Resources, NMFS, or designee, by telephone (301–427–8401), and the Administrator, West Coast Region, NMFS, or designee, by telephone (562–980–3232), within 48 hours of the discovery of the injured or dead animal.

(b) The National Marine Fisheries Service must be informed immediately of any changes or deletions to any portions of the proposed monitoring plan submitted, in accordance with the Letter of Authorization.

(c) The holder of the Letter of Authorization must designate biologically trained, on-site individual(s), approved in advance by NMFS, to record the effects of the launch activities and the resulting noise on pinnipeds.

(d) The holder of the Letter of Authorization must implement the following monitoring measures:

(1) *Visual land-based monitoring.* (i) Prior to each missile launch, an observer(s) will place three autonomous digital video cameras overlooking chosen haul-out sites located varying distances from the missile launch site. Each video camera will be set to record a focal subgroup within the larger haul-out aggregation for a maximum of 4 hours or as permitted by the videotape capacity.

(ii) Systematic visual observations, by those individuals, described in paragraph (c) of this section, of pinniped presence and activity will be conducted and recorded in a field logbook a minimum of 2 hours prior to the estimated launch time and for no less than 1 hour immediately following the launch of target missiles.

(iii) Systematic visual observations, by those individuals, described in paragraph (c) of this section, of pinniped presence and activity will be conducted and recorded in a field logbook a minimum of 2 hours prior to launch, during launch, and for no less than 1 hour after the launch of the BQM–34, BQM–74, Tomahawk, RAM target and similar types of missiles.

(iv) Documentation, both via autonomous video camera and human observer, will consist of:

(A) Numbers and sexes of each age class in focal subgroups;

(B) Description and timing of launch activities or other disruptive event(s);

(C) Movements of pinnipeds, including number and proportion moving, direction and distance moved, and pace of movement;

(D) Description of reactions;

(E) Minimum distances between interacting and reacting pinnipeds;

(F) Study location;

(G) Local time;

(H) Substratum type;

(I) Substratum slope;

(J) Weather condition;

(K) Horizontal visibility; and

(L) Tide state.

(2) *Acoustic monitoring.* (i) During all target missile launches, calibrated recordings of the levels and characteristics of the received launch sounds will be obtained from three different locations of varying distances from the target missile's flight path. To the extent practicable, these acoustic recording locations will correspond with the haul-out sites where video and human observer monitoring is done.

(ii) Acoustic recordings will be supplemented by the use of radar and telemetry systems to obtain the trajectory of target missiles in three dimensions.

(iii) Acoustic equipment used to record launch sounds will be suitable for collecting a wide range of parameters, including the magnitude, characteristics, and duration of each target missile.

(e) The holder of the Letter of Authorization must implement the following reporting requirements:

(1) For each target missile launch, the lead contractor or lead observer for the holder of the Letter of Authorization must provide a status report to NMFS, West Coast Regional Office, providing reporting items found under the Letter of Authorization, unless other arrangements for monitoring are agreed upon in writing.

(2) The Navy shall submit an annual report describing their activities and including the following information:

(i) Timing, number, and nature of launch operations;

(ii) Summary of mitigation and monitoring implementation;

(iii) Summary of pinniped behavioral observations; and

(iv) Estimate of the amount and nature of all takes by harassment or by other means.

(3) The Navy shall submit a draft comprehensive technical report to the Office of Protected Resources and West Coast Regional Office, NMFS, 180 days prior to the expiration of the regulations in this subpart, providing full documentation of the methods, results, and interpretation of all monitoring tasks for launches to date plus preliminary information for missile launches during the first 6 months of the regulations.

(4) A revised final comprehensive technical report, including all monitoring results during the entire period of validity of the Letter of Authorization, will be due 90 days after the end of the period of effectiveness of the regulations in this subpart.

(5) The final report will be subject to review and comment by NMFS. Any recommendations made by NMFS must be addressed in the final comprehensive technical report prior to acceptance by NMFS.

(f) Activities related to the monitoring described in paragraphs (c) and (d) of this section, or in the Letter of Authorization issued under §§ 216.106 and 217.57 of this chapter, including the retention of marine mammals, may be conducted without the need for a separate scientific research permit.

(g) In coordination and compliance with appropriate Navy regulations, the NMFS may, at its discretion, place an observer on San Nicolas Island for any activity involved in marine mammal monitoring either prior to, during, or after a missile launch in order to monitor the impact on marine mammals.

§ 217.56 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to the regulations in this subpart, the U.S. citizen (as defined by § 216.6 of this chapter) conducting the activity identified in § 217.50 (the U.S. Navy) must apply for and obtain either an initial LOA in accordance with § 217.57 or a renewal under § 217.58.

§ 217.57 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart.

(b) Each Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (i.e., mitigation); and

(3) Requirements for mitigation, monitoring, and reporting.

(c) Issuance and renewal of the Letter of Authorization will be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

§ 217.58 Renewals and Modifications of Letters of Authorization.

(a) A Letter of Authorization issued under §§ 216.106 and 217.57 of this chapter for the activity identified in § 217.50 will be renewed or modified upon request of the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision of this chapter), and;

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting measures (excluding changes made pursuant to the adaptive management provision of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis illustrating the change, and solicit public comments before issuing the LOA.

(c) An LOA issued under §§ 216.106 and 217.57 of this chapter for the activity identified in § 217.50 may be modified by NMFS under the following circumstances:

(1) *Adaptive management.* NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with the Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data could contribute to the decision to modify the mitigation, monitoring, and reporting measures in an LOA:

(A) Results from the Navy's monitoring from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) *Emergencies.* If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.50(b), a Letter of Authorization may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

[FR Doc. 2014–13084 Filed 6–2–14; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 109
Friday, June 6, 2014

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

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–114942–14; 1545–BM08]

Filing of Form 5472

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations concerning the manner of filing Form 5472, ''Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business.'' The proposed regulations would remove a current provision for timely filing of Form 5472 separately from an income tax return that is untimely filed. As a result, Form 5472 would be required to be filed in all cases only with the filer's income tax return for the taxable year by the due date (including extensions) of that return. The proposed regulations affect certain 25-percent foreign-owned domestic corporations and certain foreign corporations that are engaged in a trade or business in the United States that are required to file Form 5472. Regulations finalizing the temporary provisions of TD 9529 (76 FR 33997, 2011–30 IRB 57), also about requirements for taxpayers filing Form 5472, will be published in the same issue of the **Federal Register** as these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by August 5, 2014.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–114942–14), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–114942–14), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (indicate IRS and REG–114942–14).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Anand Desai at (202) 317–6939; concerning submission of comments and request for hearing, Oluwafunmilayo (Funmi) Taylor at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 6038A and 6038C of the Internal Revenue Code (Code).

Section 6038A generally requires information reporting by a 25-percent foreign-owned domestic corporation with respect to certain transactions between such a corporation and certain related parties. Similarly, section 6038C generally requires a foreign corporation engaged in a trade or business within the United States at any time during the taxable year to report the information described in section 6038A with respect to certain transactions between such corporation and certain related parties.

On June 19, 1991, the IRS and the Treasury Department published in the **Federal Register** (56 FR 28056) final regulations (TD 8353, 1991–2 CB 402) under section 6038A (1991 final regulations). The 1991 final regulations contained guidance under a number of provisions including §§ 1.6038A–1 and 1.6038A–2 regarding information reporting requirements under sections 6038A and 6038C and § 1.6038A–4 regarding the imposition of penalties for failure to satisfy reporting requirements. Section 1.6038A–1(c)(1) defines a reporting corporation as (i) a domestic corporation that is 25-percent foreign-owned; (ii) a foreign corporation that is 25-percent foreign-owned and engaged in trade or business within the United States; or (iii) after November 4, 1990, a foreign corporation engaged in a trade or business within the United States at any time during a taxable year. Section 1.6038A–2(a)(1) generally requires a reporting corporation to file a separate annual information return on Form 5472 with respect to each related party with which the reporting corporation has had any reportable transaction during the taxable year. Section 1.6038A–2(d) of the 1991 regulations required a reporting corporation to file Form 5472 with its income tax return for the taxable year by the due date (including extensions) of that return. Section 1.6038A–2(d) of the 1991 final regulations also required a reporting corporation to file a duplicate Form 5472 with the Internal Revenue Service Center in Philadelphia, PA (duplicate filing requirement). Section 1.6038A–2(e) of the 1991 final regulations provided that if a reporting corporation's income tax return is not timely filed, Form 5472 nonetheless was required to be filed (with a duplicate to the Internal Revenue Service Center in Philadelphia, PA) at the service center where the return is due (untimely filed return provision).

On February 9, 2004, the IRS and the Treasury Department published in the **Federal Register** (69 FR 5931) final regulations and temporary regulations (2004 temporary regulations) (TD 9113, 2004–1 CB 524) under section 6038A regarding the duplicate filing requirement. The text of the 2004 temporary regulations also served as the text of proposed regulations (REG–167217–03, 2004–1 CB 540) set forth in the proposed rules section of the same issue of the **Federal Register** (69 FR 5940–01) (2004 proposed regulations). The 2004 temporary regulations provided that the duplicate filing requirement of § 1.6038A–2(d) is satisfied if Form 5472 is timely filed electronically (electronic filing provision). The 2004 temporary regulations did not add a conforming electronic filing provision to § 1.6038A–2(e) (containing the untimely filed return provision) because the electronic filing of Form 5472 other than as an attachment to an electronically filed income tax return was not technically possible when the 2004 temporary regulations were published. On September 15, 2004, the IRS and the Treasury Department published in the **Federal Register** (69 FR 55499–02) final regulations (TD 9161, 2004–2 CB 704) that adopted the 2004 proposed regulations without change. TD 9161 also removed the text of the 2004 temporary regulations.

As a result of advances in electronic processing and data collection in the IRS, the duplicate filing requirement contained in § 1.6038A–2(d) was no longer necessary. Accordingly, on June 10, 2011, temporary regulations (TD

9529, 2011–30 IRB 57) (2011 temporary regulations) under sections 6038A and 6038C were published in the **Federal Register** (76 FR 33997). On the same day, a notice of proposed rulemaking (REG–101352–11, 2011–30 IRB 75) (2011 proposed regulations) was published by cross-reference to the 2011 temporary regulations in the **Federal Register** (76 FR 34019). The 2011 temporary regulations provided that duplicate filing of Form 5472 will no longer be required regardless of whether the reporting corporation files a paper or an electronic income tax return. The 2011 temporary regulations implemented this change by removing the duplicate filing requirement and the electronic filing provision. As a result, the only remaining provision in the regulation for filing Form 5472 separately from the filer's income tax return is the untimely filed return provision contained in § 1.6038A–2T(e) of the 2011 temporary regulations (which are being finalized contemporaneous with the proposal of these regulations).

Section 1.6038A–4(a) provides that if a reporting corporation fails to furnish the information described in § 1.6038A–2 within the time and manner prescribed in § 1.6038A–2(d) and (e), an initial penalty of $10,000 (with possible additional penalties for continued failure) shall be assessed for each taxable year and for each related party with respect to which the failure occurs (subject to reasonable cause).

A Treasury decision is being published in this issue of the **Federal Register** that adopts the 2011 proposed regulations without substantive change as final regulations and removes the corresponding 2011 temporary regulations. These proposed regulations propose new changes to the final regulations under §§ 1.6038A–2 and 1.6038A–4.

Explanation of Provisions

A. In General

As explained in the Background section, the only remaining provision for filing a Form 5472 separately from the filer's income tax return is the untimely filed return provision contained in § 1.6038A–2(e) of the final regulations. With the benefit of experience, the IRS and the Treasury Department believe that the untimely filed return provision is not conducive to efficient tax administration. More specifically, the method for filing a Form 5472 should not differ from the method (and penalties) applicable to U.S. persons that have similar international reporting obligations, for example, the requirement to file (i) Form 5471, ''Information Return of U.S. Persons With Respect to Certain Foreign Corporations,'' in the case of U.S. persons that control certain foreign corporations, and (ii) Form 8865, ''Return of U.S. Persons With Respect to Certain Foreign Partnerships,'' in the case of U.S. persons that control certain foreign partnerships. Those forms must be filed with the filer's income tax return for the taxable year by the due date (including extensions) of the return, and there is no provision equivalent to the untimely filed return provision under § 1.6038A–2T(e) of the 2011 temporary regulations that would require or permit separate filing of those forms. See §§ 1.6038–2(i) and 1.6038–3(i)(1). Accordingly, it is proposed that the untimely filed return provision contained in § 1.6038A–2(e) be removed.

Corresponding amendments are proposed to § 1.6038A–4 to update a cross-reference and delete an obsolete reference to prior internal organization of the IRS, and to § 1.6038A–1(n)(2) and (3) with respect to proposed effective dates of §§ 1.6038A–2 and 1.6038A–4.

B. Proposed Effective/Applicability Date

These regulations are proposed to apply to taxable years ending on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. See § 1.6038A–1(n)(2) and (3).

Special Analyses

It has been determined that these proposed regulations are not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The IRS and the Treasury Department request comments on all aspects of these proposed regulations. All comments will be available at *www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting information

The principal author of these proposed regulations is Anand Desai, Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

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

■ **Par. 2.** Section 1.6038A–1 is amended by revising the third sentence of, and adding a new fourth sentence to, paragraph (n)(2), and adding a third sentence to paragraph (n)(3), to read as follows:

§ 1.6038A–1 General requirements and definitions.

* * * * *

(n) * * *

(2) *Section 1.6038A–2.* * * * Section 1.6038A–2(d) applies for taxable years ending on or after June 10, 2011. For taxable years ending on or after June 10, 2011, but before the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**, see § 1.6038A–2(e) as contained in 26 CFR part 1 revised as of April 1, 2014. * * *

(3) *Section 1.6038A–4.* * * * For taxable years ending before the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**, see § 1.6038A–4(a)(1) as contained in 26 CFR part 1 revised as of April 1, 2014.

* * * * *

§ 1.6038A–2(e) [Removed].

■ **Par. 3.** Section 1.6038A–2 is amended by removing paragraph (e).

■ **Par. 4.** Section 1.6038A–4 is amended by revising paragraph (a)(1) to read as follows:

§ 1.6038A–4 Monetary penalty.

(a) * * *

(1) *In general.* If a reporting corporation fails to furnish the information described in § 1.6038A–2 within the time and manner prescribed in § 1.6038A–2(d), fails to maintain or cause another to maintain records as required by § 1.6038A–3, or (in the case of records maintained outside the United States) fails to meet the non-U.S. record maintenance requirements within the applicable time prescribed in § 1.6038A–3(f), a penalty of $10,000 shall be assessed for each taxable year with respect to which such failure occurs. The filing of a substantially incomplete Form 5472 constitutes a failure to file Form 5472. Where, however, the information described in § 1.6038A–2(b)(3) through (5) is not required to be reported, a Form 5472 filed without such information is not a substantially incomplete Form 5472.

* * * * *

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2014–13254 Filed 6–5–14; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1990–0011; FRL–9911–79-Region 4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the B&B Chemical Co., Inc Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 is issuing a Notice of Intent to Delete the B&B Chemical Co., Inc. Superfund Site (Site) located in Miami-Dade County, Florida, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Florida, through the Florida Department of Environmental Protection (FDEP), have determined that all appropriate response actions under CERCLA, other than pavement maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by *July 7, 2014.*

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1990–0011, by one of the following methods:

- *http://www.regulations.gov.* Follow on-line instructions for submitting comments.
- *Web site: www.epa.gov/region4/waste/sf/enforce.htm.*
- *Email: johnston.shelby@epa.gov.*
- *Fax:* (404) 562–8287, Attention: Shelby Johnston.
- *Mail:* Shelby Johnston, Remedial Project Manager, Superfund Remedial Section D, Superfund Remedial Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery:* U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Docket's normal hours of operation and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1990–0011. EPA's policy is that all comments received will be included in the public Docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public Docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the Docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statue. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available Docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at: U.S. EPA Record Center, attn: Mr. Ronald Saskowski, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960, Phone: (404) 562–8862, Hours 8 a.m.–4 p.m., Monday through Friday by appointment only; or, John F. Kennedy Library, 190 West 49th Street, Hialeah, Florida 33012, Phone: 305–821–2700, Hours 12 p.m.–8 p.m., Monday through Thursday, 9 a.m.–5 p.m. Saturday.

FOR FURTHER INFORMATION CONTACT: Shelby Johnston, Remedial Project Manager, Superfund Remedial Section D, Superfund Remedial Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960, 404–562–8287, email: *johnston.shelby@epa.gov.*

SUPPLEMENTARY INFORMATION:

In the ''Rules and Regulations'' Section of today's **Federal Register**, EPA is publishing a direct final Notice of Deletion of B&B Chemicals Superfund Site without prior Notice of Intent to Delete because The Agency views this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If the EPA receives no adverse comment(s) on this deletion action, the Agency will not take further action on this Notice of Intent to Delete. If adverse comment(s) are reviewed, the EPA will withdraw the direct final Notice of Deletion, and it will not take effect. The EPA will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. The EPA will not

institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the *Rules* section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, and Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: April 15, 2014.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2014–13209 Filed 6–5–14; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 79, No. 109

Friday, June 6, 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

Office of the Secretary

Notice of Solicitation of Members to the National Genetic Research Advisory Council

AGENCY: Research, Education, and Economics, USDA.

ACTION: Solicitation of members.

SUMMARY: The notice announced the USDA's request for membership on the National Genetic Resources Advisory Board. The notice was published in the **Federal Register** on March 24, 2014.

FOR FURTHER INFORMATION CONTACT: Michele Esch, 202–720–3684 or 202–720–8408.

Correction

In the **Federal Register** of March 24, 2014 in FR Doc. 2014–06276, on pages 15934–15935, in the date section, read as follows:

DATES: All nomination materials should be mailed in a single, complete package and postmarked or sent electronically by June 13, 2014.

Yvette Anderson,

Federal Register Liaison Officer for ARS, ERS, and NASS.

[FR Doc. 2014–13206 Filed 6–5–14; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will be meeting in Yreka, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meetings are open to the public. The purpose of the meetings is to review prior project recommendations and decide whether or not to begin accepting new project proposals should funding become available.

DATES: Meetings will be held at 6:00 p.m. on the following dates:

- June 16, 2014.
- June 23, 2014.
- July 21, 2014.
- August 18, 2014.
- September 15, 2014.

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

ADDRESSES: The meetings will be held at the Klamath National Forest (NF) Supervisor's Office, 1711 South Main Street, Yreka, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Klamath NF Supervisor's Office.

FOR FURTHER INFORMATION CONTACT: Jodi Marron, RAC Coordinator, by phone at 530–841–4411 or via email at *jrmarron@fs.fed.us*.

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

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf*. The agenda will include time for people to make oral statements of three minutes or less. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments may be sent to Jodi Marron, RAC Coordinator, Klamath NF Supervisor's Office, 1711 South Main Street, Yreka, California 96097; by email to *jrmarron@fs.fed.us,* or via facsimile to 530–841–4571.

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

Dated: May 29, 2014.

Patricia A. Grantham,

Forest Supervisor.

[FR Doc. 2014–13196 Filed 6–5–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–65–2014]

Foreign-Trade Zone 44—Morris County, New Jersey; Application for Subzone; Panasonic System Communications Company of North America; Rockaway, New Jersey

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the New Jersey Department of State, grantee of FTZ 44, requesting subzone status for the facility of Panasonic System Communications Company of North America, located in Rockaway, New Jersey. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on June 2, 2014.

The proposed subzone (13.51 acres) is located at 701 Ford Road, Rockaway, New Jersey. A notification for proposed production activity has been submitted

and will be published separately for public comment. The proposed subzone will be subject to the existing activation limit of FTZ 44.

In accordance with the FTZ Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 16, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 31, 2014.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: June 3, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–13253 Filed 6–5–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review

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

SUMMARY: On March 28, 2014, the United States Court of International Trade (''CIT'') issued its final judgment affirming the Department of Commerce's (''the Department'') final results of redetermination pursuant to second remand of the tenth antidumping duty administrative review of fresh garlic from the People's Republic of China.[1] Consistent with the decision of the Court of Appeals for the Federal Circuit (''CAFC'') in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*''), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (CAFC 2010) (''*Diamond Sawblades*''), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results and is amending the final results of the tenth administrative review of fresh garlic from the People's Republic of China (''PRC'') with respect to the margins assigned to Jinan Yipin Corporation (''Jinan Yipin''), Sunny Import & Export Ld. (''Sunny''), and Linshu Dading Private Agricultural Products Co., Ltd. (''Linshu Dading'') (collectively, ''Respondents'') covering the period of review (''POR'') November 1, 2003, through October 31, 2004.[2]

DATES: *Effective Date:* April 7, 2014.

FOR FURTHER INFORMATION CONTACT: Erin Begnal, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1442.

SUPPLEMENTARY INFORMATION: Subsequent to the publication of the *Final Results* on May 4, 2006, seven PRC producers and exporters of fresh garlic filed a complaint with the CIT to challenge various aspects of the *Final Results* of the Department's tenth administrative review of the antidumping duty order on fresh garlic from the PRC.

On May 13, 2009, the Court sustained the Department's *Final Results* as to two of seven issues (the use of the intermediate input methodology to value raw garlic bulbs, and the Department's calculation of surrogate financial ratios), and remanded the remaining five issues for further consideration.[3] On January 25, 2010, the Court granted a motion for voluntary dismissal concerning four of the seven PRC producers that were involved in this litigation.[4] On September 26, 2011, the Court sustained the Department's First Remand[5] as to one issue, the valuation of ocean freight, and remanded four issues regarding the valuation of (1) raw garlic bulbs, (2) labor, (3) cardboard packing cartons, and (4) plastic jars and lids, to the Department for further consideration.[6]

On March 28, 2014, the Court sustained the Department's Second Remand, affirming the Department's re-calculation of the surrogate labor wage rate and the Department's selection of surrogate values for raw garlic bulbs, cardboard packing cartons, and plastic jars and lids.[7]

Timken Notice

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (''the Act''), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's March 28, 2014 judgment in this case constitutes a final decision of that court that is not in harmony with the Department's *Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision with respect to this case, the Department is amending the *Final Results* with respect to the Respondents' weighted-average dumping margins for the period November 1, 2003 through October 31, 2004. The revised weighted-average dumping margins are as follows:

Exporter	Percent margin
Jinan Yipin Corporation, Ltd.	0.00%
Linshu Dading Private Agricultural Products Co., Ltd.	0.00%
Sunny Import & Export Co., Ltd.	0.04%

In the event the CIT's ruling is not appealed, or if appealed, upheld by the CAFC, because the above margins are *de minimis,* the Department will instruct CBP to liquidate entries of subject merchandise exported by the

[1] *See Jinan Yipin Corporation, Ltd.* v. *United States,* 971 F. Supp. 2d 1296 (CIT 2014) (''*Jinan Yipin III*''); Final Results of Redetermination Pursuant To Second Remand issued by the Department, Consol. Ct. No. 06–00189, Slip Op. 11–119 (CIT 2011), dated March 29, 2012 (''Second Remand'').

[2] *See Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Final Results of New Shipper Review,* 71 FR 26329 (May 4, 2006) (''*Final Results*'').

[3] *See Zhengzhou Harmoni Spice Co.* v. *United States,* 617 F. Supp. 2d 1281 (CIT 2009).

[4] *See Zhengzhou Harmoni Spice Co.* v. *United States,* 675 F. Supp. 2d 1320 (CIT 2010).

[5] *See* Final Results of Redetermination Pursuant to Court Remand issued by the Department, Consol. Ct. No. 06–00189, Slip Op. 09–39 (CIT 2009), dated (April 5, 2010) (''First Remand'').

[6] *See Jinan Yipin Corporation, Ltd.* v. *United States,* 800 F. Supp. 2d 1226 (CIT 2011).

[7] *See Jinan Yipin III,* 971 F. Supp. 2d at 1296 (CIT 2014).

Respondents without regard to dumping duties.

This notice is issued and published in accordance with sections 516A(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 30, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–13258 Filed 6–5–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–804]

Ball Bearings and Parts Thereof From Japan: Amended Rescission of Antidumping Duty Administrative Review, in Part; 2010–2011

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

SUMMARY: The Department of Commerce (the Department) is amending its rescission in part for the administrative review of the antidumping duty order on ball bearings and parts thereof (ball bearings) from Japan for the period May 1, 2010, through April 30, 2011.

DATES: *Effective Date:* June 6, 2014.

FOR FURTHER INFORMATION CONTACT: Sandra Dreisonstok or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0768 and (202) 482–1690 respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 8, 2014, in accordance with 19 CFR 351.213(d)(1), we published a notice of rescission in part with respect to the antidumping duty order on ball bearings from Japan for the period May 1, 2010, through April 30, 2011.[1]

Amended Rescission of Review in Part

In our *Rescission Notice* we stated, ''the Department intends to issue appropriate assessment instructions to U.S. Customs and Border Protection 15 days after publication of this notice.'' In light of our *Timken Notice,*[2] we are amending the *Rescission Notice* by striking this sentence.

Dated: May 30, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–13262 Filed 6–5–14; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Ball Bearings and Parts Thereof From Japan: Rescission of Antidumping Duty Administrative Review, in Part; 2010–2011,* 79 FR 26405 (May 8, 2014) (*Rescission Notice*).

[2] *See Ball Bearings and Parts Thereof from Japan and the United Kingdom: Notice of Court Decision Not in Harmony With Continuation of Antidumping Duty Orders,* 76 FR 35401 (June 17, 2011) (*Timken Notice*).

DEPARTMENT OF COMMERCE

International Trade Administration

7th Annual U.S. Industry Program at the International Atomic Energy Agency (IAEA) General Conference

AGENCY: International Trade Administration (ITA), Department of Commerce, (DOC).

ACTION: Notice.

SUMMARY: The United States Department of Commerce's International Trade Administration is amending the FR Notice published at 79 FR 30547, May 28, 2014, regarding the 7th Annual U.S. Industry Program at the International Atomic Energy Agency (IAEA) General Conference scheduled for September 21–24, 2014, to revise the dates of the application deadline from June 14, 2014 to the new deadline of June 27, 2014.

SUPPLEMENTARY INFORMATION: Amendment to Revise the Application Deadline.

Background

Recruitment for this Mission began in May 2014. Due to summer holidays, it has been determined that additional time is needed to allow for recruitment and marketing in support of the mission. Applications will now be accepted through June 27, 2014 (and after that date if space remains and scheduling constraints permit). Interested U.S. civil nuclear energy firms, trade organizations, universities, and research institutions that have not already submitted an application are encouraged to do so.

Amendment

For the reasons stated above, the Timeframe for Recruitment and Participation section of the Notice of the 7th Annual U.S. Industry Program at the International Atomic Energy Agency (IAEA) General Conference has been amended. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning June 27, 2014. We will inform all applicants of selection decisions no later than July 18, 2014. Applications received after the June 27, 2014 deadline will be considered only if space and scheduling constraints permit.

FOR FURTHER INFORMATION CONTACT:

Jonathan Chesebro, Office of Energy & Environmental Industries, Industry & Analysis, Washington DC, Phone: 202–482–1297; Email: *jonathan.chesebro@trade.gov.*

Marta Haustein, Embassy of the United States of America, U.S. Commercial Service Vienna, Austria, Phone: +43(0) 1 313 39 2205; Email: *marta.haustein@trade.gov.*

Shannon Fraser, International Business Development, U.S. Commercial Service—Silicon Valley, Phone: 408–535–2757, ext. 106; Email: *shannon.fraser@trade.gov.*

Dated: May 30, 2014.

Catherine Vial,

Team Leader, Environmental and Renewable Energy Industries, Office of Energy and Environmental Industries.

[FR Doc. 2014–13264 Filed 6–5–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of completion of panel review of the Department of Commerce's final determination concerning carbon and certain alloy steel wire rod from Canada (Secretariat File No. USA–CDA–2009–1904–01).

SUMMARY: Pursuant to the Decision and Order of the Binational Panel dated April 29, 2014, the panel review was completed on May 30, 2014.

FOR FURTHER INFORMATION CONTACT: Ellen Bohon, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: On April 29, 2014, a Binational Panel issued its Decision and Order upholding the final results of the 2006–2007 administrative review of the antidumping order issued by the U.S. Department of Commerce concerning Carbon and Certain Alloy Steel Wire Rod from Canada. The Secretariat was instructed to issue a Notice of Completion of Panel Review

on the 31st day following the issuance of the Notice of Final Panel Action, if no request for an Extraordinary Challenge Committee was filed. No such request was filed. Therefore, on the basis of the Panel Order and Rule 80 of the *Article 1904 Panel Rules,* the Panel Review was completed and the panelists were discharged from their duties effective May 30, 2014.

Dated: June 2, 2014.

Ellen M. Bohon,

United States Secretary, NAFTA Secretariat.

[FR Doc. 2014–13115 Filed 6–5–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD319

Western Pacific Fishery Management Council; Public Meetings; Correction

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

ACTION: Notice of amendment to a public meeting notice.

SUMMARY: The Western Pacific Fishery Management Council (Council) announces a change in the dates for its Advisory Panel (AP) Meeting and change in agenda for the 116th Scientific and Statistical Committee Meeting and 160th Council Meeting.

DATES: The 116th SSC meeting on June 17–19, 2014 between 8:30 a.m. and 5 p.m.; The AP meeting will be held on June 20–21, 2014 between 1 p.m. and 5 p.m. at the Council Office in Honolulu, HI; and the 160th Council Meeting will be held between 8:30 a.m. and 5 p.m. on June 25–27, 2014 at the YWCA in Honolulu, HI. For specific times and agenda, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The SSC and AP Meeting will be held at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813; telephone: (808) 522–8220.

The 160th Council meeting will be held at the Laniakea YWCA-Fuller Hall, 1040 Richards Street, Honolulu, HI 96813; telephone: (808) 538–7061.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: This notice is being re-published in its entirety due to a change in dates of the AP meeting and change in Council Meeting agenda. The original notice published in the **Federal Register** on June 2, 2014 (79 FR 31310). The original notice noted the AP Meeting date as June 19–20, 2014. The new dates of the meeting are June 20–21, 2014. The AP the agenda remains the same and the SSC and Council Meeting agendas are changed as follows:

Schedule and Agenda for 116th SSC Meeting

8:30 a.m.–5 p.m., Tuesday, June 17, 2014

1. Introductions
2. Approval of Draft Agenda and Assignment of Rapporteurs
3. Status of the 115th SSC Meeting Recommendations
4. Report from the Pacific Islands Fisheries Science Center Director
5. Insular Fisheries
   - A. CNMI Bottomfish Amendment (Action Item)
   - B. Main Hawaiian Islands (MHI) Deep 7 Stock Assessment
   - C. Regulatory changes to the MHI bottomfish fishery (Action Item)
   - D. Main Hawaiian Island (MHI) Bottomfish Restricted Fishing Area (BRFA) Management Plan
   - E. Public Comment
   - F. SSC Discussion and Recommendations
6. Program Planning
   - A. Stock Assessment Prioritization Review (Action Item)
   - B. Specifying Acceptable Biological Catches for the crustacean, precious corals, coral reef, MHI Deep 7, and Hawaii non-deep 7 bottomfish in the Western Pacific Region (Action Item)
   - C. Evaluation of 2013 catch relative to 2013 Annual Catch Limits (Action Item)
   - D. Report on the Hawaii and Joint Archipelagic Plan Team meeting
   - E. Regional Strategic Plan for Fishery Data Collection and Research
   - F. Council 5-year Research Priorities
   - 1. Ecosystem and Stocks
   - 2. Human Communities
   - 3. Protected Species
   - G. Public Comment
   - H. SSC Discussion and Recommendations

8:30 a.m.–5 p.m., Wednesday, June 18, 2014

7. Pelagic Fisheries
   - A. Modification of American Samoa Large Vessel Prohibited Area (Action Item)
   - B. Experimental Fishing Permit—American Samoa large vessel prohibited area (Action Item)
   - C. Overfishing determination for Western & Central Pacific Ocean North Pacific striped marlin (Action Item)
   - D. Longline Fisheries Quarterly Reports
   - 1. Hawaii
   - 2. American Samoa
   - E. Cost-Earning Study of Hawaii Longline Fishery
   - F. Bigeye Tuna Movement Workshop
   - G. Disproportionate Burden Workshop
   - H. International Fisheries
   - 1. Inter-American Tropical Tuna Commission (IATTC) Science Committee
   - I. Public Comment
   - J. SSC Discussion and Recommendations
8. Protected Species
   - A. Updated Data on False Killer Whale Distribution and Stock Boundaries
   - B. Analysis of Impacts under the Deep-set Longline Biological Opinion and Marine Mammal Protection Act (MMPA) Permit
   - C. Updates on Endangered Species Act (ESA) and MMPA Actions
   - 1. Update on the False Killer Whale Take Reduction Plan Implementation
   - 2. Final Determination to List 66 Species of Coral under the ESA
   - 3. Final Determination to List Scalloped Hammerhead Shark under the ESA
   - 4. Green Turtle Status Review
   - 5. North Pacific Humpback Whale Status Review
   - 6. Other Relevant Actions
   - D. Public Comment
   - E. SSC Discussion and Recommendations

8:30 a.m.–12 Noon, Thursday, June 19, 2014

9. Other Business
   - A. 117th SSC Meeting
10. Summary of SSC Recommendations to the Council

Schedule and Agenda for AP Meeting

2:00 p.m.–5 p.m., Friday, June 20, 2014

1. Welcoming Remarks
2. Overview and Introductions
3. Meeting Expectations
4. Advisory Panel Review
   - A. Presentation of Plan
   - 1. Membership
   - 2. Duties and Responsibilities
   - 3. Meetings and Reports
   - 4. Communication and Outreach
   - B. 2015–18 AP Solicitation Application Review
   - C. Next Steps
5. Public Hearing
6. Discussion and Recommendations

8 a.m.–5 p.m., Saturday, June 21, 2014

7. Report on Fishery/Community Issues and Council Support

A. American Samoa
B. Guam
C. Commonwealth of the Northern Mariana Islands (CNMI)
D. Hawaii-Pacific Remote Island Areas (PRIA)
8. Science Presentation ''Status of Nearshore Stocks''
9. Council Meeting Items for Discussion and Action
A. Stock Assessment Prioritization
B. ACL Specifications
1. Crustacean, Precious Corals, coral reef, Hawaii non-Deep 7 Bottomfish
2. Hawaii Deep 7 Bottomfish
3. Evaluation of ACLs and Catch
C. CNMI Bottomfish Closure Modification
D. American Samoa Large Vessel Prohibited Area
1. Proposed Modifications
2. Experimental Fishing Permit
E. Overfished Determination of Striped Marlin
F. Protected Species
1. Green Sea Turtle Management Plan
2. Update on Endangered Species Act Petitions
3. Discussion on Nearshore Interactions with Protected Species
10. Other Business
11. Public Hearing
12. Discussion and Recommendations

Schedule and Agenda for 160th Council Meeting

8:30 a.m.–5 p.m., Wednesday, June 25, 2014

1. Welcome and Introductions
2. Opening Remarks
3. Approval of the 160th Agenda
4. Approval of the 159th Meeting Minutes
5. Executive Director's Report
6. Agency Reports
A. National Marine Fisheries Service
1. NMFS Agency Report
2. Pacific Islands Regional Office
3. Pacific Islands Fisheries Science Center (PIFSC)
B. NOAA General Counsel, Pacific Island Section
C. U.S. Fish and Wildlife Service
D. Enforcement
1. U.S. Coast Guard
2. NMFS Office for Law Enforcement
3. NOAA General Counsel for Enforcement
E. Public Comment
F. Council Discussion and Action
7. Program Planning and Research
A. Stock assessment prioritization review (Action Item)
B. Specifying Annual Catch Limits for the crustacean, precious corals, coral reef, Hawaii non-deep 7 bottomfish in the Western Pacific Region (Action Item)
D. Evaluation of 2013 catch relative to 2013 ACLs (Action Item)
E. Proposed NOAA Recreational Saltwater Fishing Policy
F. Council 5-year Research Priorities
1. Ecosystem and Stocks
2. Human Communities
3. Protected Species
G. Marine Fisheries Advisory Committee (MAFAC) National Seafood Certification
H. National, Regional and International Education
I. Advisory Group Reports and Recommendations
1. Joint Archipelagic Plan Team
2. Joint Advisory Panel
3. Fishery Data Collection and Research Committee
4. Fishing Industry Advisory Committee
5. Report of the Social Science Research Committee
6. Marine Planning and Climate Change Committee
J. SSC Recommendations
K. Public Hearing
L. Council Discussion and Action

6 p.m.–9 p.m., Wednesday, June 25, 2014

Fishers Forum on Non-Commercial Fishing & Recreational Saltwater Fishing Policy Listening Session

8:30 a.m.–5 p.m., Thursday, June 26, 2014

8. American Samoa Archipelago
A. Motu Lipoti
B. Fono Report
C. Enforcement Issues
D. Community Activities and Issues
1. Update on Community Fisheries Development
2. Seafood Market Training Workshop
E. Fishery Disaster Relief Funds
F. Marine Conservation Plan
G. Education and Outreach Initiatives
H. American Samoa National Marine Sanctuary
I. Rose Atoll Marine National Monument
J. Advisory Group Reports and Recommendations
1. American Samoa Regional Ecosystem Advisory Committee
2. Joint AP
3. Joint Archipelagic Plan Team
4. FIAC
5. SSRC
6. MPCC
K. SSC Recommendations
L. Public Comment
M. Council Discussion and Action
9. Hawaii Archipelago
A. Moku Pepa
B. Legislative Report
C. Enforcement
D. Main Hawaiian Island (MHI) Bottomfish
1. Report on MHI Bottomfish Stock Assessment
2. Deep-7 ACL Specification (Action Item)
3. State of Hawaii Bottomfish Restricted Fishing Areas (BRFAs) Management Plan
4. Regulatory Changes for MHI Bottomfish (Action Item)
E. Community Projects, Activities and Issues
1. Supporting the Aha Moku System
2. Outreach and Education Report
F. Hawaiian Humpback Whale National Marine Sanctuary
G. Papahanaumokuakea Marine National Monument
H. Habitat Blue Print—West Hawaii
I. Pacific Remote Island Areas (PRIA)/Hawaii Western Pacific Sustainable Fisheries Fund Marine Conservation Plan
J. Advisory Group Reports and Recommendations
1. Joint AP
2. Hawaii Plan Team
3. Archipelagic Plan Team
4. FIAC
5. SSRC
6. MPCC
K. SSC Recommendations
L. Public Comment
M. Council Discussion and Action
10. Protected Species
A. Updated Data on False Killer Whale Distribution and Stock Boundaries
B. Analysis of Impacts under the Deep-set Longline Biological Opinion and MMPA Permit
C. Updates on ESA and MMPA Actions
1. Update on the False Killer Whale Take Reduction Plan Implementation
2. Final Determination to List 66 Species of Coral as Endangered or Threatened under the ESA
3. Final Determination to List Scalloped Hammerhead Shark under the ESA
4. Green Turtle Status Review
5. North Pacific Humpback Whale Petition
6. Other Relevant Actions
D. Management of Green Sea Turtles
E. Advisory Group Recommendations
1. Joint AP
2. Pelagic PT
3. Archipelagic PT
4. FIAC
5. SSRC
6. MPCC
F. SSC Recommendations
G. Public Comment
H. Council Discussion and Action
11. Public Comment on Non-Agenda Items

9 a.m.–5 p.m., Friday June 27, 2014

12. Mariana Archipelago

A. Guam
1. Isla Informe
2. Legislative Report
3. Enforcement Issues
4. Report on Guam Projects and Programs
a. Fisheries Development Projects
b. Data Collection Projects
5. Habitat Blue Print—Manell-Gues
B. Commonwealth of the Northern Mariana Islands
1. Arongol Falu
2. Legislative Report
3. Enforcement Issues
4. Bottomfish Area Closure Modification (Action Item)
5. Status Report on CNMI Projects and Programs
a. Data Collection Efforts
C. Guam and CNMI Marine Conservation Plans
D. Marianas Trench Marine National Monument: Islands, Volcanic and Trench Units
E. Education and Outreach Initiatives
F. Advisory Group Reports and Recommendations
1. Joint AP
2. Archipelagic PT
3. FIAC
4. SSRC
5. MPCC
G. SSC Recommendations
H. Public Hearing
I. Council Discussion and Action
13. Pelagic & International Fisheries
A. Modification to the American Samoa large vessel prohibited area (Action Item)
B. Experimental Fishing Permit—American Samoa Large Vessel Prohibited Area (Action Item)
C. Overfished determination for WCPO NP striped marlin (Action Item)
D. Longline Fisheries Quarterly Reports
1. Hawaii
2. American Samoa
E. Bigeye Tuna Movement Workshop
F. Disproportionate Burden Workshop
G. International Fisheries
1. IATTC Science Committee
H. Advisory Group Recommendations
1. Joint AP
2. Pelagic PT
3. FIAC
4. SSRC
5. MPCC
I. SSC Recommendations
J. Standing Committee Recommendations
K. Public Hearing
L. Council Discussion and Recommendations
14. Administrative Matters
A. Financial Reports
B. Administrative Reports
C. Standard Operating Practices and Procedures (SOPP) Review and Changes
D. Council Family Changes
E. Advisory Panel Review and Plan
F. Meetings and Workshops
1. May Council Coordinating Committee
G. Report on Magnuson-Stevens Act (MSA) Reauthorization
H. Other Business
I. Standing Committee Recommendations
J. Public Comment
K. Council Discussion and Action
15. Other Business

Non-Emergency issues not contained in this agenda may come before the Council for discussion and formal Council action during its 160th meeting. However, Council action on regulatory issues will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least five days prior to the meeting date.

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

Dated: June 3, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–13211 Filed 6–5–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD326

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold meetings of the: Administrative Policy, Joint Coral/Habitat Protection, Red Drum, Advisory Panel Selection, Reef Fish, Shrimp, Data Collection, Outreach and Education and Sustainable Fisheries/Ecosystem Management Committees; and a meeting of the Full Council. The Council will also hold a formal public comment session.

DATES: The Council meeting will be held from 8:30 a.m. on Monday, June 23 until 11:30 a.m. on Friday, June 27, 2014.

ADDRESSES:

Meeting Address: The meeting will be held at the Marriott Key West Beachside Hotel, 3841 N. Roosevelt Boulevard, Key West, FL 33040; telephone: (800) 546–0885.

Council Address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas Gregory, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; email: *doug.gregory@gulfcouncil.org.*

SUPPLEMENTARY INFORMATION: The items of discussion for each individual management committee agenda are as follows:

Administrative Policy Committee Agenda, Monday, June 23, 2014, 8:30 a.m. until 12 noon

1. Review and Approval of Draft Administrative Handbook
2. Review of House and Senate Magnuson-Stevens Act Amendment

—Recess—

Joint Coral/Habitat Protection Committees Agenda, Monday, June 23, 2014, 1:30 p.m. until 2:30 p.m.

1. Summary of the April 2014, Joint Coral Scientific and Statistical Committee/Coral Advisory Panel Meeting
2. Discussion of ESA Coral Listing Final Rule

Red Drum Committee Agenda, Monday, June 23, 2014, 2:30 p.m. until 4 p.m.

1. Review of Territorial Extension of Gulf State Recreational Red Drum Management Scoping Document

Advisory Panel Selection Committee Agenda, Full Council—Closed Session, Monday, June 23, 4 p.m. until 5 p.m.

1. Appointments to the Ad Hoc Red Snapper For-Hire IFQ Advisory Panel

—Recess—

Reef Fish Management Committee Agenda, Tuesday, June 24, 2014, 8:30 a.m. until 11:30 a.m. & 1 p.m. until 5:30 p.m.

1. Discussion of the SEDAR 33 Benchmark Assessments for Gag and Greater Amberjack
2. Review of Amendment 28—Red Snapper Allocation and Recreational Accountability Measures
3. Review of the Red Snapper Slot Limit and Hook Size Analysis
4. Review of Amendment 40—Recreational Red Snapper Sector Separation Public Hearing Draft
5. Final Review of the Correction to Codified Text for IFQ Species Complexes
6. Federal For-Hire Red Snapper Limited Access Privilege Program
7. Discussion of Recreational Red Snapper Management Feedback

—Recess—

Shrimp Committee Agenda, Wednesday, June 25, 2014, 8:30 a.m. until 9:30 a.m.

1. Review of Public Hearing Draft for Shrimp Amendment 15—Status Determination Criteria for Penaeid Shrimp and Adjustments to the Shrimp FMP Framework Procedure
2. Review of the April 2014 ESA Section 7 Consultation on the Continued Implementation of Sea Turtle Conservation Regulations under ESA and the Continued Authorization of the Southeast U.S. Shrimp Fisheries in Federal Waters
3. Update on the Shrimp Workshop

Data Collection Committee Agenda, Wednesday June 25, 2014, 9:30 a.m. until 11:30 a.m.

1. Discussion of Technical Subcommittee for Electronic Charter Boat Reporting Recommendations
2. Update on Headboat Collaborative Program
3. Discussion of Southeast Region's Electronic Monitoring and Reporting Implementation Program
4. Discussion of MRIP Methodology to Monitor Recreational Landings

—Recess—

Outreach and Education Committee Agenda, Wednesday, June 25, 2014, 1 p.m. until 1:30 p.m.

1. Summary of Outreach and Education Advisory Panel Meeting

Sustainable Fisheries/Ecosystem Committee Agenda, Wednesday, June 25, 2014, 1:30 p.m. until 4:30 p.m.

1. Review of the GOM Ecosystem Assessment Status Report
2. Review of the Status Determination Criteria, Optimum Yield, and Red Snapper ACL Designation Options Paper
3. Discussion of the Permits for Veterans Proposal

—Recess—

Council Session Agenda, Wednesday, June 25, 2014, 5 p.m. until 8:15 p.m.

5 p.m.—5:15 p.m.: Call to Order, introductions, adoption of agenda and approval of minutes

5:15 p.m.—8:15 p.m.: The Council will receive public testimony on Final Action—Correction to Codified Text for IFQ Species Complexes, Updated Draft Amendment 28—Red Snapper Allocation and Recreational Accountability Measures. The Council will also hold an open public comment period regarding any other fishery issues or concerns. People wishing to speak before the Council should complete a public comment card prior to the comment period.

—Recess—

Council Session Agenda, Thursday, June 26, 2014, 8:30 a.m. until 4:30 p.m.

8:30 a.m.—10:15 a.m.: The Council will receive the following presentations: Florida Keys National Marine Sanctuary Status of Management, RESTORE Act Presentation, Summary of NOAA Restoration Science Program Advisory Working Group (RSPAWG), Discussion of RESTORE Act.

10:15 a.m.—4:30 p.m.: The Council will receive committee reports from the Advisory Panel Selection, Red Drum, Outreach and Education, Data Collection, Shrimp, Sustainable Fisheries/Ecosystem and the Administrative Policy.

—Recess—

Council Session Agenda, Friday, June 27, 2014, 9 a.m. until 11:30 a.m.

9 a.m.—11 a.m.: The Council will continue to receive committee reports from the Reef Fish committee.

11 a.m.—11:30 a.m.: The Council will discuss other business.

—Adjourn—

The Agenda is subject to change, and the latest version will be posted on the Council's file server, which can be accessed by going to the Council Web site at *http://www.gulfcouncil.org* and clicking on FTP Server under Quick Links. The meetings will be webcast over the internet. A link to the webcast will be available on the Council's Web site, *http://www.gulfcouncil.org.*

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 Council's intent to take final action to address the emergency.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working 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: June 3, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–13237 Filed 6–5–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD325

Caribbean Fishery Management Council; Public Hearings and Meetings

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

ACTION: Notice of public hearings and scoping meetings.

SUMMARY: The Caribbean Fishery Management Council (Council) will hold public hearings to obtain input from fishers, the general public and the local agencies representatives on the Draft Comprehensive Amendment to the U.S. Caribbean Fishery Management Plans (FMPs): Annual Catch Limit Control Rule. Immediately following, the Council will hold scoping meetings on the Scoping Document that addresses the Timing of Accountability Measure-Based Seasonal Closures in all the U.S. Caribbean FMPs. These are separate actions, each of which would amend the Council FMPs for the Reef Fish Resources, Corals and Reef Associated Plants and Invertebrates, Spiny Lobster, and Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands.

Dates and Addresses: The Public Hearings and Scoping Meetings will be held on the following dates and locations:

In Puerto Rico:

June 23rd, 2014—7 p.m.–10 p.m.—Holiday Inn Ponce & Tropical Casino, 3315 Ponce By Pass, Ponce, Puerto Rico.

June 24th, 2014—7 p.m.–10 p.m.—Doubletree by Hilton San Juan Hotel, De Diego Avenue, San Juan, Puerto Rico.

June 25th, 2014—7 p.m.–10 p.m.—Club Náutico de Arecibo, Rd. 681 Km 1.4, Arecibo, Puerto Rico.

June 26th, 2014—7 p.m.–10 p.m.—Mayaguez Holiday Inn, 2701 Hostos Avenue, Mayaguez, Puerto Rico.

June 30th, 2014—7 p.m.–10 p.m.—Asociación de Pescadores Unidos de Playa Húcares de Naguabo, Naguabo, Puerto Rico.

In the U.S. Virgin Islands:

June 23rd, 2014—7 p.m.–10 p.m.—Windward Passage Hotel, Charlotte Amalie, St. Thomas, U.S. Virgin Islands.

June 24th, 2014—7 p.m.–10 p.m.—Buccaneer Hotel, Estate Shoys, Christiansted, St. Croix, U.S. Virgin Islands.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will first convene the public hearing to take comments on the Annual Catch Limit Control Rule. Immediately following that public hearing the Council will convene the scoping meeting to discuss alternative approaches for establishing fishing season closures that are required in response to overages of an annual catch limit. Specifically, the Council intends to receive public input on the following management actions:

Public Hearing

Draft Comprehensive Amendment to the U.S. Caribbean Fishery Management Plans: Annual Catch Limit Control Rule

Summary: NMFS, in collaboration with the Council, has developed this Comprehensive Amendment and its Draft Environmental Assessment to establish an ''Annual Catch Limit (ACL) Control Rule'' to adjust the current buffer reduction applied to the overfishing limit (OFL), or to the acceptable biological catch (ABC) (if specified), to derive the ACL for species managed by the Council in Puerto Rico, St. Croix, and St. Thomas/St. John Exclusive Economic Zone (EEZ). The control rule would apply a specific buffer reduction based on the current status of the fishery management unit (FMU) as determined by NMFS. Establishing this control rule would provide the Council and NMFS the flexibility to respond quickly to changes in the fishery.

The alternatives considered in this Comprehensive Amendment address the following issue:

The 2010 Caribbean ACL Amendment (FR 76 82404) and the 2011 Caribbean ACL Amendment (FR 76 82414), both implemented in 2012, established ACLs for all species managed by the Council. Annual catch limits for managed species were derived from buffer reductions to their respective OFL or ABC to account for scientific and management uncertainty. The Council considered the overfishing status of stocks at the time of preparation of these amendments when determining how much uncertainty (percent reduction) should be applied to the OFL or the ABC (if specified) to derive the ACL for each FMU and sector (commercial or recreational) within the unit.

Since the completion of these amendments, the overfishing status of several of these FMUs has changed, and it is anticipated that future changes in overfishing status will occur. To respond to this situation, the Council requested a modification to the regulations to ensure that, when the overfishing status of a stock changes, the buffer reduction applied to the appropriate management reference point to determine the ACL should be changed accordingly. Establishing an ''ACL Control Rule'' through this comprehensive amendment would provide for a new and straightforward process that would allow for ACL revisions based on overfishing status.

Proposed Action and Alternatives

Action: Establish a control rule to adjust the buffer reduction applied to the OFL or to the ABC used to derive the ACL to reflect a change in overfishing status of the stock. There are three alternatives for this action:

Alternative 1: No Action. Do not establish a control rule to adjust the buffer reduction applied to the OFL or the ABC to determine the ACL for all FMUs for which harvest is allowed. The buffer reductions to the OFL or the ABC would continue to be those defined in the 2010 and 2011 Caribbean ACL Amendments.

Alternative 2: For all FMUs for which harvest is allowed (or where applicable), establish an ACL Control Rule where ACL = [OFL (or ABC) × (0.85)] for FMUs determined to be subject to overfishing, and where ACL = [OFL (or ABC) × (0.90)] for FMUs determined not to be subject to overfishing in a specific year.

Alternative 3 (Preferred): Establish an ACL Control Rule where ACL = [OFL (or ABC) × (0.85)] for FMUs determined to be subject to overfishing, and where ACL = [OFL (or ABC) × (0.90)] for FMUs determined not to be subject to overfishing in a specific year. The ACL control rule would apply to FMUs for which harvest is allowed, with the exception of the following FMUs, for which buffer reductions to the OFL or ABC specified in the 2010 and/or 2011 Caribbean ACL amendment would continue to be applied to derive the ACL:

Sub-alternative 3a (Preferred). Parrotfish FMU—As defined in the 2010 Caribbean ACL Amendment, ACL = [ABC × (0.85)]. An additional 5.8822% reduction to the ACL of the parrotfish FMU would continue to be applied in the St. Croix management area to further reduce harvest from this direct fishery in recognition of the ecological role of parrotfish as herbivores. Sub-alternative 3b (Preferred). Surgeonfish FMU—As defined in the 2011 Caribbean ACL Amendment, ACL = [ABC × (0.75)] to reflect the ecological role of surgeonfish as herbivores in coral reefs.

Sub-alternative 3c (Preferred). Angelfish FMU—As defined in the 2011 Caribbean ACL Amendment, ACL = [ABC × (0.75)] to reflect the ecological role of angelfish as spongivores in coral reefs. Sub-alternative 3d (Preferred). Queen conch FMU—As defined in the 2010 Caribbean ACL Amendment, for St. Croix, ACL = ABC specified by the Caribbean Fishery Management Council's Scientific and Statistical Committee. For Puerto Rico and St. Thomas/St. John, ACL = 0. Sub-alternative 3e (Preferred). Aquarium trade species FMU—As defined in the 2011 Caribbean ACL Amendment, ACL = [ABC × (0.75)] for aquarium trade species in the Corals and Reef Associated Plants and Invertebrates FMP and in the Reef Fish FMP.

Scoping Meeting

Scoping Document To Address the Timing of Accountability Measure-Based Seasonal Closures in All U.S. Caribbean Fishery Management Plans

Summary: In U.S. Caribbean federal waters, accountability measures (AMs) require NMFS' Assistant Administrator to shorten the length of the fishing season if it has been determined that prior year(s) landings exceeded the ACL for an FMU. The fishing season would be shortened in the year following an overage determination by the amount necessary to constrain landings to the ACL. These AM-based reductions in the length of the fishing season, for any

FMU for which the ACL has been exceeded, are implemented beginning on December 31st of the appropriate year and extending backwards in the year for the number of days necessary to achieve the required reduction in landings. Fishers have expressed to the Council that the timing of these closures results in negative socio-economic impacts. To address this issue, the Council is proposing to develop a mechanism that allows them and NMFS to establish closure dates other than the standard end of the year closures in the event of an overage of the ACL for a specific group of species. There are several approaches that the Council could consider to evaluate and eventually establish a mechanism to guide the selection of AM-based seasonal closures:

Default AM-Closure Date—No Action

Accountability measure-based closures would continue to be implemented beginning on December 31st of the appropriate year and extending backwards in the year for the number of days necessary to achieve the required reduction in landings.

''Customized'' Approach/Mechanism

Change the default AM-closure date (closures start from December 31st going backwards). This procedure to set the timing of the closures would consist of performing an analysis every year for those units that exceeded the ACL over the average of a chosen number of years, and choosing the best date to close the season for the next year based on that specific analysis.

''Upfront'' Timing Approach (Pre-Determined AM-Based Closure Dates)

This approach would also change the default AM-closure date but in a different way than the ''Customized'' Process/Mechanism. This approach would consist of a one-time pre-determination and establishment of closure dates (e.g., start or end date) for all Council FMUs (or alternatively apply the analysis to a selected group of FMUs) and implement through rulemaking. The start or end date would not have to be the same for each FMU.

The goal of this Scoping Hearing is to allow the public to comment on the options listed above and to provide alternative options not yet considered by the Council and NMFS, considering the goals of remaining within the ACL and lessening the socio-economic impact of AMs.

Written comments can be sent to the Council not later than July 25th, 2013, by regular mail to the address below, or via email to *graciela_cfmc@yahoo.com*.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: June 3, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–13236 Filed 6–5–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD022

Takes of Marine Mammals Incidental to Specified Activities; Construction Activities at the Children's Pool Lifeguard Station at La Jolla, California

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

ACTION: Notice; issuance of an Incidental Harassment Authorization (IHA).

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), notification is hereby given that NMFS has issued an IHA to the City of San Diego to take small numbers of marine mammals, by Level B harassment, incidental to construction activities at the Children's Pool Lifeguard Station in La Jolla, California.

DATES: Effective June 28, 2014 through June 27, 2015.

ADDRESSES: A copy of the IHA and the application are available by writing to Jolie Harrison, Supervisor, Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 or by telephoning the contacts listed below (see **FOR FURTHER INFORMATION CONTACT**).

An electronic copy of the IHA application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice, including the IHA application, may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*), directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for the incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On November 26, 2013, NMFS received an application from the City of San Diego, Engineering and Capital Projects Department, requesting an IHA for the taking of marine mammals incidental to construction activities. NMFS determined that the IHA application was adequate and complete

on November 26, 2013. NMFS published a notice making preliminary determinations and proposing to issue an IHA on February 11, 2014 (79 FR 8160). The notice initiated a 30 day public comment period.

The City of San Diego will undertake the construction activities between June 2014 and June 2015 at the Children's Pool Lifeguard Station in La Jolla, California. In-air noise generated from equipment used during the construction activities is likely to result in the take of marine mammals. The requested IHA will authorize the take, by Level B (behavioral) harassment, of small numbers of Pacific harbor seals (*Phoca vitulina richardii*), California sea lions (*Zalophus californianus*), and northern elephant seals (*Mirounga angustirostris*) incidental to construction activities of the Children's Pool Lifeguard Station at La Jolla, CA.

NMFS issued the City of San Diego an IHA in 2013 (78 FR 40705, July 8, 2013) for demolition and construction activities at the Children's Pool Lifeguard Station that were scheduled to be completed in 2013. Because the construction activities were subject to delays (e.g., nesting migratory birds, unexpected drainage pipes, unexpected demolition and construction planning, etc.) and could not be completed by December 15, 2013, the City of San Diego requested a renewal of the 2013 IHA for an additional year. Additional information on the construction activities at the Children's Pool Lifeguard Station is contained in the IHA application, which is available upon request (see **ADDRESSES**).

Description of the Specified Activity

Overview

The City of San Diego plans to conduct construction activities at the Children's Pool Lifeguard Station in La Jolla, CA in order to meet the needs of the lifeguards at Children's Pool and the demand for lifeguard services. The overall project includes the demolition of the existing lifeguard station and construction of a new, three-story, lifeguard station on the same site. Demolition of the existing lifeguard station was completed in 2013 and construction of the new lifeguard station is expected to be completed in 2014.

Dates and Duration

The City of San Diego is planning to begin/resume the project at the Children's Pool in La Jolla, CA on June 1, 2014, (see page 30 to 31 of the Negative Declaration in the IHA application) with completion of the new lifeguard station to be completed by December 15, 2014. The City of San Diego and NMFS are requiring a moratorium on all construction activities during harbor seal pupping and weaning (i.e., December 15th to May 30th; see page 5 of the Mitigated Negative Declaration in the IHA application). Therefore, work on this project can only be performed between June 1st and December 14th of any year.

Planned construction activities will generally occur Monday through Friday (no work will occur on holidays) during daylight hours only, as stipulated in the ''Mitigated Negative Declaration'' included in the IHA application and local ordinances. As a modification to the original IHA, the City of San Diego has requested that planned construction activities be allowed on weekends (i.e., Saturday and Sunday to ensure completion of the project during 2014. The exact dates of the planned activities depend on logistics and scheduling. The IHA is valid through June 2015 to allow for construction delays.

Specific Geographic Region

The La Jolla Children's Pool Lifeguard Station is located at 827 ½ Coast Boulevard, La Jolla, CA 92037 (32°50′50.02″ North, 117°16′42.8″ West). The locations and distances (in ft) from the construction site to the Children's Pool haul-out area, breakwater ledge/rocks haul-out area, reef haul-out area, and Casa Beach haul-out area can be found in the City of San Diego's IHA application.

Detailed Description of the Specified Activities

The Children's Pool was created in 1931 by building a breakwater wall which created a protected pool for swimming. Although partially filled with sand, the Children's Pool still has open water for swimming and a beach for sunbathing and beachcombing. The Children's Pool and nearby shore areas (i.e., shoreline, beaches, and reefs of La Jolla) are used by swimmers, sunbathers, SCUBA divers and snorkelers, shore/surf fishermen, school classes, tide pool explorers, kayakers, surfers, boogie and skim boarders, seal, sea lion, bird and nature watchers, and for other activities by the general public. Over the last three years (2010 through 2012), an average of 1,556,184 people have visited the Children's Pool annually, and lifeguards have taken an average of 8,147 preventive actions and 86 water rescues annually (CASA, 2010; 2011; 2012).

The previous lifeguard facility at Children's Pool, built in 1967, was old, deteriorating from saltwater intrusion, and no longer served the needs of the lifeguard staff or the beach-going public. The structure was condemned on February 22, 2008 due to its deteriorated condition and lack of structural integrity. Because the existing building was no longer viable, a temporary lifeguard tower was moved in. However, a new lifeguard station is required to meet the needs of the lifeguards and the demand for lifeguard services.

The overall project includes the demolition of the existing lifeguard station and construction of a new, three-story, lifeguard station on the same site. Demolition of the existing lifeguard station was completed in 2013 and construction of the new lifeguard station is expected to be completed in 2014. The new lifeguard facility is in an optimal location to provide lifeguard service to the community. The new, three-story, building will contain a lower level with beach access level public restrooms and showers, lifeguard lockers, and sewage pump room; a second level with two work stations, ready/observation room, kitchenette, restroom, and first aid station; and a third ''observation'' level with a single occupancy observation space, radio storage closet, and exterior catwalk. Interior stairs will link the floors. The existing below grade retaining walls will remain in place and new retaining walls will be constructed for a ramp from street level to the lower level for emergency vehicle beach access and pedestrian access to the lower level restrooms and showers. A 5.6 m (18.5 ft) wall will be located along the north end of the lower level. The walls will be designed for a minimum design life of 50 years and will not be undermined from ongoing coastal erosion. The walls will not be readily viewed from Coast Boulevard, the public sidewalks or the surrounding community. Enhanced paving, seating and viewing space, drinking fountains, adapted landscaping, and water efficient irrigation will also be included.

The City of San Diego has divided the demolition and construction activities are divided into phases:

(1) Mobilization and temporary facilities;
(2) Demolition and site clearing;
(3) Site preparation and utilities;
(4) Building foundation;
(5) Building shell;
(6) Building exterior;
(7) Building interior;
(8) Site improvements; and
(9) Final inspection and demobilization.

Demolition and construction of the new lifeguard station was estimated to take approximately 7 months (148 actual demolition and construction

days) and be completed by December 15, 2013; however, demolition and construction did not start until later than previously planned due to the presence of nesting migratory birds. There were additional unexpected delays in the demolition due to unforeseen underground structures at the site making it impossible to finish the project by December 15, 2013. The City of San Diego completed phases 1 to 4 by December 2013. Construction of phases 5 to 9 will commence in June 2014, thereby necessitating a renewal of the previous IHA.

The notice of the final IHA for the City of San Diego's demolition and construction activities that was published in the **Federal Register** on July 8, 2013 (78 FR 40705) provides a detailed summary on phases 1 to 4 (i.e., mobilization and temporary facilities, demolition and site clearing, site preparation and utilities, and building foundation). Phases 5 to 9 include (phases overlap in time):

(5) *Building shell:*

Pre-cast concrete panel walls, panel walls, rough carpentry and roof framing, wall board, cable railing, metal flashing, and roofing.

Equipment—crane, truck, fork lift, and hand/power tools.

Timeframe—Approximately 35 days.

This phase will be completed in 2014 and has a maximum source level of 100 dB.

(6) *Building exterior:*

Doors and windows, siding paint, light fixtures, and plumbing fixtures.

Equipment—truck, hand/power tools, and chop saw.

Timeframe—Approximately 4 weeks.

This phase will be completed in 2014 and has a maximum source level of 100 dB.

(7) *Building interiors:*

Walls, sewage lift station, rough and finish mechanical electrical plumbing structural (MEPS), wall board, door frames, doors and paint.

Equipment—truck, hand/power tools, and chop saw.

Timeframe—Approximately 37 days.

This phase will be completed in 2014 and has a maximum source level of 100 dB.

(8) *Site improvements:*

Modify storm drain, concrete seat walls, curbs, and planters, fine grade, irrigation, hardscape, landscape, hand rails, plaques, and benches.

Equipment—backhoe, truck, hand/power tools, concrete pump/truck, and fork lift.

Timeframe—Approximately 37 days.

This phase will be completed in 2014 and has a maximum source level of 110 dB.

(9) *Final inspection, demobilization:*

System testing, remove construction equipment, inspection, and corrections.

Equipment—truck, and hand/power tools.

Timeframe—Approximately 41 days.

This phase will be completed in 2014 and has a maximum source level of 100 dB.

The exact dates of the planned activities depend on logistics and scheduling.

Sound levels during all phases of the project will not exceed 110 dB re 20 μPa at five feet from the sound sources. The 110 dB estimate is based on equipment manufacturers' estimates obtained by the construction contractor. The City of San Diego utilized published or manufacturers' measurement data based on the planned equipment (i.e., a backhoe, dump truck, cement pump, air compressor, electric screw guns, jackhammers, concrete saw, chop saw, and hand tools) to be utilized on the project site. Operation of the equipment is the primary activity within the range of construction activities that is likely to affect marine mammals by potentially exposing them to in-air (i.e., airborne or sub-aerial) noise. During the working day, the City of San Diego estimates there will be sound source levels above 90 dB re 20 μPa, including 65 days of 100 to 110 dB re 20 μPa at the construction site.

On average, pinnipeds will be about 30.5 meters (m) (100 feet [ft]) or more from the construction site with a potential minimum of about 15.2 m (50 ft). During 2013, measured sound levels from the demolition equipment reaching the pinnipeds did not exceed approximately 90 dB at the haul-out area closest to the demolition and construction and a peak of about 83 dB re 20 μPa at the mean hauling-out distance (30.5 m). The City of San Diego used the formula and online calculator on the Web site: *http://sengpielaudio.com/calculator-distance.htm* and measured distances from the sound source to determine the area of potential impacts from in-air sound. No studies of ambient sound levels have been conducted at the Children's Pool, the City of San Diego intends to measure in-air background noise levels in the days immediately prior to, during, and after the construction activities.

Additional details regarding the construction activities of the Children's Pool Lifeguard Station can be found in the City of San Diego's IHA application. The IHA application can also be found online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

Comments and Responses

A notice of preliminary determinations and proposed IHA for the City of San Diego's construction activities was published in the **Federal Register** on February 11, 2014 (79 FR 8160). During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission) and a private citizen. The comments are posted online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Following are the substantive comments and NMFS's responses:

Comment 1: The Commission considers the proposed monitoring and mitigation measures sufficient to avoid significant impacts on harbor seals, California sea lions, and northern elephant seals that might occur in the proposed project area. The Commission recommends that NMFS issue the IHA, subject to inclusion of the proposed monitoring and mitigation measures.

Response: NMFS concurs with the Commission's recommendation and has issued the IHA to the City of San Diego.

Comment 2: The Commission commends the City of San Diego for conducting in-situ measurements of in-air sound levels during last year's activities. To better assess in-air sound propagation and source levels of the specific construction activities during 2014, the Commission suggests that the City of San Diego note the distance from the sound meter to each sound-producing activity when conducting sound measurements.

Response: NMFS has included this recommendation as a monitoring and reporting measure in the IHA (see ''Mitigation'' and ''Monitoring and Reporting'' sections below for more information).

Comment 3: A private citizen states that pinnipeds will be killed by the proposed activities and believes that the proposed IHA should be denied to the City of San Diego.

Response: As described in detail in the **Federal Register** notice for the proposed IHA (79 FR 8150, February 11, 2014) and this document, NMFS has determined that the City of San Diego's construction activities at the Children's Pool Lifeguard Station in La Jolla, CA, will not cause injury, serious injury, or mortality to marine mammals. The required monitoring and mitigation measures that the City of San Diego will implement during the construction activities will further reduce the adverse effects on marine mammals to the lowest level practicable. NMFS anticipates only behavioral disturbance

to occur during the conduct of the construction activities.

Description of Marine Mammals in the Specified Geographic Area of the Specified Activity

Three species of pinnipeds are known to or could occur in the Children's Pool action area and off the Pacific coastline (see Table 1 below). Pacific harbor seals, California sea lions, and northern elephant seals are the three species of marine mammals that occur and are likely to be found within the immediate vicinity of the activity area. Therefore, these three species are likely to be exposed to effects of the specified activities. A variety of other marine mammals have on occasion been reported in the coastal waters off southern California. These include gray whales, killer whales, bottlenose dolphins, Steller sea lions, northern fur seals, and Guadalupe fur seals. However, none of these species have been reported to occur in the immediate action area of the Children's Pool beach. Therefore, NMFS does not expect, and is not authorizing, incidental take of other marine mammal species from the specified activities. Table 1 below identifies the cetacean and pinnipeds species, their habitat, and conservation status in the nearshore area of the general region of the project area.

TABLE 1—THE HABITAT, ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS INHABITING THE GENERAL REGION OF THE ACTION AREA IN THE PACIFIC OCEAN OFF THE SOUTHERN COAST OF CALIFORNIA

Species	Habitat	Occurrence	Range	Best population estimate (minimum) [1]	ESA [2]	MMPA [3]
Mysticetes						
Gray whale (*Eschrichtius robustus*).	Coastal and shelf	Transient during season migrations.	North Pacific Ocean, Gulf of California to Arctic—Eastern North Pacific stock.	19,126 (18,107)	DL—Eastern Pacific stock. EN—Western Pacific stock.	NC—Eastern North Pacific stock D—Western North Pacific stock.
Odontocetes						
Killer whale (*Orcinus orca*).	Widely distributed	Varies on inter-annual basis.	Cosmopolitan	354 (354)—West Coast Transient stock.	NL EN—Southern resident population.	NC D—Southern Resident and AT1 Transient populations.
Bottlenose dolphin (*Tursiops truncatus*).	Offshore, inshore, coastal, estuaries.	Limited, small population within 1 km of shore.	Tropical and temperate waters between 45° North and South.	323 (290)—California Coastal stock.	NL	NC.
Long-beaked common dolphin (*Delphinus capensis*).	Inshore	Common, more inshore distribution, year-round presence.	Nearshore and tropical waters.	107,016 (76,224)—California stock.	NL	NC.
Pinnipeds						
Pacific harbor seal (*Phoca vitulina richardii*).	Coastal	Common	Coastal temperate to polar regions in Northern Hemisphere.	30,196 (26,667)—California stock.	NL	NC.
Northern elephant seal (*Mirounga angustirostris*).	Coastal, pelagic when not migrating.	Common	Eastern and Central North Pacific—Alaska to Mexico.	124,000 (74,913)—California breeding stock.	NL	NC.
California sea lion (*Zalophus californianus*).	Coastal, shelf	Common	Eastern North Pacific Ocean—Alaska to Mexico.	296,750 (153,337)—U.S. stock.	NL	NC.
Steller sea lion (*Eumetopias jubatus*).	Coastal, shelf	Rare	North Pacific Ocean—Central California to Korea.	72,223 (52,847)—Eastern U.S. stock.	DL—Eastern U.S. stock. EN—Western U.S. stock.	D.
Northern fur seal (*Callorhinus ursinus*).	Pelagic, offshore	Rare	North Pacific Ocean—Mexico to Japan.	12,844 (6,722)—California stock.	NL	NC—California stock.
Guadalupe fur seal (*Arctocephalus townsendi*).	Coastal, shelf	Rare	California to Baja California, Mexico.	7,408 (3,028)—Mexico to California.	T	D.

NA = Not available or not assessed.
[1] NMFS Marine Mammal Stock Assessment Reports.
[2] U.S. Endangered Species Act: EN = Endangered, T = Threatened, DL = Delisted, and NL = Not listed.
[3] U.S. Marine Mammal Protection Act: D = Depleted, S = Strategic, and NC = Not classified.

The rocks and beaches at or near the Children's Pool in La Jolla, CA, are almost exclusively Pacific harbor seal hauling-out sites. On infrequent occasions, one or two California sea lions or a single juvenile northern elephant seal have been observed on the sand or rocks at or near the Children's Pool (i.e., breakwater ledge/rocks haul-out area, reef haul-out area, and Casa Beach haul-out area). These sites are not usual haul-out locations for California sea lions and/or northern elephant seals. The City of San Diego commissioned two studies of harbor seal abundance trends at the Children's Pool. Both studies reported that appearances of California sea lions and northern elephant seals are infrequent, but not rare at Children's Pool (Yochem and Stewart, 1998; Hanan, 2004; Hanan & Associates, 2011). During 2013, the City of San Diego observed one juvenile and three adult California sea lions and two juvenile northern elephant seals at the Children's Pool.

Pacific Harbor Seal

Harbor seals are widely distributed in the North Atlantic and North Pacific. Two subspecies exist in the Pacific Ocean: *P. v. stejnegeri* in the western North Pacific near Japan, and *P. v. richardii* in the eastern North Pacific. The subspecies in the eastern North Pacific Ocean inhabits near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. These seals do not make extensive pelagic migrations, but do travel 300 to 500 kilometers (km) (162 to 270 nautical miles [nmi]) on occasion to find food or suitable breeding areas (Herder, 1986; Harvey and Goley, 2011). Previous assessments of the status of harbor seals have recognized three stocks along the west coast of the continental U.S.: (1) California, (2) Oregon and Washington outer coast waters, and (3) inland waters of Washington. An unknown number of harbor seals also occur along the west coast of Baja California, at least as far south as Isla Asuncion, which is about 100 miles south of Punta Eugenia. Animals along Baja California are not considered to be a part of the California stock because it is not known if there is any demographically significant movement of harbor seals between California and Mexico and there is no international agreement for joint management of harbor seals. Harbor seal presence at haul-out sites is seasonal with peaks in abundance during their pupping and molting periods. Pupping and molting periods are first observed to the south and progress northward up the coast with time (e.g., January to May near San Diego, April to June in Oregon and Washington) (Jeffries, 1984; Jeffries, 1985; Huber et al., 2001; Hanan, 2004; Hanan & Associates, 2011).

In California, approximately 400 to 600 harbor seal haul-out sites are distributed along the mainland coast and on offshore islands, including intertidal sandbars and ledges, rocky shores and islets, and beaches (Harvey *et al.,* 1995; Hanan, 1996; Lowry *et al.,* 2008). Preferred haul-out sites are those that are protected from the wind and waves, and allow access to deep water for foraging (Perrin *et al.,* 2008). Of the known haul-out sites, 14 locations are rookeries (2 locations have multiple sites, for a total of 17 sites) on or near the mainland of California. The population of harbor seals has grown off the U.S. west coast and has led to new haul-out sites being used in California (Hanan, 1996). Harbor seals are one of the most common and frequently observed marine mammals along the coastal environment.

Harbor seals have been observed hauling-out and documented giving birth at the Children's Pool since the 1990's (Yochem and Stewart, 1998; Hanan & Associates, 2004). Pacific harbor seals haul-out year-round on beaches and rocks (i.e., breakwater ledge/rocks haul-out area, reef haul-out area, and Casa Beach haul-out area) below the lifeguard tower at Children's Pool. According to Yochem (2005), the Children's Pool beach site is used by harbor seals at all hours of the day and at all tides with the exception of occasional high tide/high swell events in which the entire beach is awash. It is one of the three known haul-out sites for this species in San Diego County. These animals have been observed in this area moving to/from the Children's Pool, exchanging with the rocky reef directly west of and adjacent to the breakwater and with Seal Rock, which is about 150 m (492 ft) west of the Children's Pool. Harbor seals have also been reported on the sandy beach just southwest of the Children's Pool. At low tide, additional space for hauling-out is available on the rocky reef areas outside the retaining wall and on beaches immediately southward. Haul-out times vary by time of year, from less than an hour to many hours. There have been no foraging studies at this site, but harbor seals have been observed in nearshore waters and kelp beds nearby, including La Jolla Cove.

The Children's Pool area is the only rookery in San Diego County and the only mainland rookery on the U.S. west coast between the border of Mexico and Point Mugu in Ventura County, CA (321.9 km [200 miles]). The number of harbor seals in this area has increased since 1979, and seals are documented to give birth on these beaches during December through May (Hanan, 2004; Hanan & Associates, 2011). The official start to pupping season is December 15. Females in an advanced stage of pregnancy begin to show up on the Children's Pool beach by late October to early November. Several studies have identified harbor seal behavior and estimated harbor seal numbers including patterns of daily and seasonal area use (Yochem and Stewart, 1998; Hanan & Associates, 2011; Linder, 2011). Males, females, and pups (in season) of all ages and stages of development are observed at the Children's Pool and adjacent areas.

In southern California, a considerable amount of information is known about the movements and ecology of harbor seals, but population structure in the region is not as well known (Stewart and Yochem, 1994, 2000; Keper *et al.,* 2005; Hanan & Associates, 2011). Linder (2011) suggests that this population moves along the California coast and the beach at Children's Pool is part of a ''regional network of interconnected'' haul-out and pupping sites. Harbor seals often haul-out in protected bays, inlets, and beaches (Reeves *et al.,* 1992). At and near the Children's Pool, harbor seals haul-out on the sand, rocks, and breakwater base in numbers of 0 to 15 harbor seals to a maximum of about 150 to 250 harbor seals depending on the time of day, season, and weather conditions (Hanan, 2004, Hanan & Associates, 2011; Linder, 2011). Because space is limited behind the breakwater at the Children's Pool, Linder (2011) predicted that it is unlikely that numbers will exceed 250 harbor seals. Based on monitoring from a camera, Western Alliance for Nature (WAN) reported that during the month of May 2013 up to 302 harbor seals were documented resting on the Children's Pool beach at any given time, with additional harbor seals on the rocks and in the water (Wan, personal communication). Almost every day, except for weekends, over 250 individual harbor seals were present on the beach. During the months of September 2012 to January 2013, the average number of harbor seals on the beach varied from 83 to 120 animals before people entered the beach or when people were behind the rope. During this same period, when people were on the beach and/or across the rope, the average number of harbor seals varied from 7 to 27. The weather (i.e., wind and/or rain) and the proximity of humans to the beach likely affect the presence of harbor seals on the beach.

Radio-tagging and photographic studies have revealed that only a portion of seals utilizing a hauling-out site are present at any specific moment or day (Hanan, 1996, 2005; Gilbert *et al.,* 2005; Harvey and Goley, 2011; and Linder, 2011). These radio-tagging studies indicate that harbor seals in Santa Barbara County haul-out about 70 to 90% of the days annually (Hanan, 1996). The City of San Diego expects harbor seals to behave similarly at the Children's Pool. Tagged and branded harbor seals from other haul-out sites have been observed by Dr. Hanan at the Children's Pool. For example, harbor seals with red-stained heads and coats, which are typical of some harbor seals in San Francisco Bay have been observed at Children's Pool, indicating that seals tagged at other locations and haul-out sites visit the site. A few seals have been tagged at the Children's Pool and there are no reports of these tagged animals at other sites (probably because

of very low re-sighting efforts and a small sample size [10 individuals radio-tagged]), which may indicate a degree of site-fidelity (Yochem and Stewart, 1998). These studies further indicate that seals are constantly moving along the coast including to/from the offshore islands and that there may be as many as 600 individual harbor seals using Children's Pool during a year, but certainly not all at one time.

The City of San Diego has fitted a polynomial curve to the number of expected harbor seals hauling-out at the Children's Pool by month (see Figure 1 of the IHA application and Figure 2 below) based on counts at the Children's Pool by Hanan (2004), Hanan & Associates (2011), Yochem and Stewart (1998), and the Children's Pool docents (Hanan, 2004). A three percent annual growth rate of the population was applied to Yochem and Stewart (1998) counts to normalize them to Hanan & Associates and docent counts in 2003 to 2004.

A complete count of all harbor seals in California is impossible because some are always away from the haul-out sites. A complete pup count (as is done for other pinnipeds in California) is also not possible because harbor seals are precocial, with pups entering the water almost immediately after birth. Population size is estimated by counting the number of seals ashore during the peak haul-out period (May to July) and by multiplying this count by a correction factor equal to the inverse of the estimated fraction of seals on land. Based on the most recent harbor seal counts (2009) and including a revised correction factor, the estimated population of harbor seals in California is 30,196 individuals (NMFS, 2011), with an estimated minimum population of 26,667 for the California stock of harbor seals. Counts of harbor seals in California increased from 1981 to 2004. The harbor seal is not listed under the ESA and the California stock is not considered depleted or strategic under the MMPA (Carretta *et al.,* 2010).

California Sea Lion

The California sea lion is a full species, separate from the Galapagos sea lion (*Zalophus wollebaeki*) and the extinct Japanese sea lion (*Zalophus japonicus*) (Brunner, 2003; Wolf *et al.,* 2007; Schramm *et al.,* 2009). This species of sea lion is found from southern Mexico to southwestern Canada. The breeding areas of the California sea lion are on islands located in southern California, western Baja California, and the Gulf of California. A genetic analysis of California sea lions identified five genetically distinct geographic populations: (1) Pacific Temperate, (2) Pacific Subtropical, (3) Southern Gulf of California, (4) Central Gulf of California, and (5) Northern Gulf of California (Schramm *et al.,* 2009). In that study, the Pacific Temperate population included rookeries within U.S. waters and the Coronados Islands just south of U.S./Mexico border. Animals from the Pacific Temperate population range north into Canadian waters, and movement of animals between U.S. waters and Baja California waters has been documented, though the distance between the major U.S. and Baja California rookeries is at least 740.8 km (400 nmi). Males from western Baja California rookeries may spend most of the year in the United States.

The entire California sea lion population cannot be counted because all age and sex classes are never ashore at the same time. In lieu of counting all sea lions, pups are counted during the breeding season (because this is the only age class that is ashore in its entirety), and the numbers of births is estimated from the pup count. The size of the population is then estimated from the number of births and the proportion of pups in the population. Censuses are conducted in July after all pups have been born. There are no rookeries at or near the Children's Pool. Population estimates for the U.S. stock of California sea lions range from a minimum of 153,337 to an average estimate of 296,750 animals. They are considered to be at carrying capacity of the environment. The California sea lion is not listed under the ESA and the U.S. stock is not considered depleted or strategic under the MMPA.

Northern Elephant Seal

Northern elephant seals breed and give birth in California (U.S.) and Baja California (Mexico), primarily on offshore islands (Stewart *et al.,* 1994) from December to March (Stewart and Huber, 1993). Males feed near the eastern Aleutian Islands and in the Gulf of Alaska, and females feed further south, south of 45° North (Stewart and Huber, 1993; Le Boeuf *et al.,* 1993). Adults return to land between March and August to molt, with males returning later than females. Adults return to their feeding areas again between their spring/summer molting and their winter breeding seasons.

Populations of northern elephant seals in the U.S. and Mexico were all originally derived from a few tens or a few hundreds of individuals that survived in Mexico after being nearly hunted to extinction (Stewart *et al.,* 1994). Given the very recent derivation of most rookeries, no genetic differentiation would be expected. However, movement and genetic exchange continues between rookeries when they start breeding (Huber *et al.,* 1991). The California breeding population is now demographically isolated from the Baja California population. The California breeding population is considered in NMFS's stock assessment report to be a separate stock.

A complete population count of elephant seals is not possible because all age classes are not ashore at the same time. Elephant seal population size is typically estimated by counting the number of pups produced and multiplying by the inverse of the expected ratio of pups to total animals (McCann, 1985). Based on the estimated 35,549 pups born in California in 2005 and an appropriate multiplier for a rapidly growing population, the California stock was approximately 124,000 in 2005. The minimum population size for northern elephant seals can be estimated very conservatively as 74,913, which is equal to twice the observed pup count (to account for the pups and their mothers), plus 3,815 males and juveniles counted at the Channel Islands and central California sites in 2005 (Lowry, NMFS unpublished data). Based on trends in pup counts, northern elephant seal colonies were continuing to grow in California through 2005, but appear to be stable or slowly decreasing in Mexico (Stewart *et al.,* 1994). Northern elephant seals are not listed under the ESA and are not considered as depleted or a strategic stock under the MMPA.

Further information on the biology and local distribution of these marine mammal species and others in the region can be found in the City of San Diego's IHA application, which is available upon request (see **ADDRESSES**), and the NMFS Marine Mammal Stock Assessment Reports, which are available online at: *http://www.nmfs.noaa.gov/pr/sars/.*

Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (e.g., construction equipment and activities) have been observed to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of take (for example, with acoustics), we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measureable

avoidance. This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented, or how either of those will shape the anticipated impacts from this specific activity. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall *et al.* (2007) designate ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

- Low-frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 30 kHz;
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (eight species of true porpoises, six species of river dolphins, *Kogia* spp., the franciscana (*Pontoporia blainvillei*), and four species of cephalorhynchids): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and
- Phocid pinnipeds in water: Functional hearing is estimated to occur between approximately 75 Hz and 100 kHz;
- Otariid pinnipeds in water: Functional hearing is estimated to occur between approximately 100 Hz and 40 kHz.

As mentioned previously in this document, 3 marine mammal species (0 cetacean and 3 pinniped species) are likely to occur in the proposed action area. Of the 3 pinniped species likely to occur in the City of San Diego's proposed action area, 2 are classified as phocid pinnipeds (i.e., Pacific harbor seal and northern elephant seal) and, 1 is classified as an otariid pinniped (i.e., California sea lion) (Southall *et al.,* 2007). The City of San Diego requests authorization for Level B harassment of these 3 species of marine mammals (i.e., Pacific harbor seals, California sea lions, and northern elephant seals) incidental to the use of equipment and its propagation of in-air noise from various acoustic mechanisms associated with the construction activities of the Children's Pool Lifeguard Station at La Jolla, CA discussed above. NMFS considers a species' functional hearing group when we analyze the effects of exposure to sound on marine mammals.

The notice of the proposed IHA (79 FR 8160, February 11, 2014) included a discussion of the effects of in-air sounds from construction activities on pinnipeds, which included tolerance, behavioral disturbance, and hearing impairment. NMFS refers readers to the City of San Diego's IHA application, NMFS's EA for additional information on the behavioral reactions (or lack thereof) by all types of marine mammals to high levels of in-air sounds.

The potential effects to marine mammals described in this section of the document generally do not take into consideration the monitoring and mitigation measures described later in this document (see the ''Mitigation'' and ''Monitoring and Reporting'' sections), which are designed to effect the least practicable impact on affected marine mammal species or stocks.

Anticipated Effects on Marine Mammal Habitat

The rocks and beaches at or near the Children's Pool in La Jolla, CA, are almost exclusively Pacific harbor seal hauling-out sites. Harbor seals have been observed hauling-out and documented giving birth at the Children's Pool since the 1990s (Yochem and Stewart, 1998; Hanan & Associates, 2004). It is one of the three known haul-out sites for this species in San Diego County and is the only rookery in San Diego County and the only mainland rookery on the U.S. west coast between the border of Mexico and Point Mugu in Ventura County, CA. More information on this population of Pacific harbor seals can be found in the ''Description of Marine Mammals in the Specified Geographic Area of the Specified Activity.''

The primary anticipated adverse impacts upon habitat consist of temporary changes to the in-air acoustic environment, as detailed in the proposed IHA notice (79 FR 8160, February 11, 2014). These changes are minor, temporary, and limited in duration to the period of the construction activities. The temporary impacts on the acoustic environment are not expected to have any permanent effects on the species or stock populations of marine mammals occurring at the Children's Pool.

All construction activities are beyond or outside the habitat areas where harbor seals and other pinnipeds are found. Visual barriers will be erected to shield construction activities from the visual perception and potentially dampen acoustic effects on pinnipeds. Because the public occasionally harasses the harbor seals with various activities, the NMFS-qualified PSO monitoring the site will make observations and attempt to distinguish and attribute any observed harassment to the public or to the construction activities and give all details in the observation report. If any short-term, temporary impacts to habitat due to sounds or visual presence of equipment and workers did occur, the City of San Diego will expect pinniped behavior to return to pre-construction conditions soon after the activities are completed, which is anticipated to occur before the next pupping season (Hanan & Associates, 2011).

The area of habitat affected is small and the effects are localized and temporary; thus there is no reason to expect any significant reduction in habitat available for foraging and other habitat uses. No aspect of the project is anticipated to have any permanent effect on the location or use of pinniped haul-outs or related habitat features in the area (Hana & Associates, 2011). Further, the site is already very disturbed by member of the public who come to the area during the day and night to view the pinnipeds. The City of San Diego and NMFS do not project any loss or modification of physical habitat for these species. Any potential temporary loss or modification of habitat due to in-air noise or visual presence of equipment and workers during the activities is expected by the

City of San Diego and NMFS to be quickly restored after construction activities end and all equipment and barriers are removed.

For these reasons, NMFS anticipates that the action will result in no impacts to marine mammal habitat beyond rendering the areas immediately around the Children's Pool less desirable during construction activities.

Mitigation

In order to issue an Incidental Take Authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must prescribe, where applicable, the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

The City of San Diego has established the Children's Pool as a shared beach for pinnipeds and people. In the past, during the pupping season, a rope was placed along the upper part of the beach with signage to inform and designate how close people can come to the haul-out area and the pinnipeds. The timeframe for the rope has been extended so that it is now present year-round. The construction activities are planned to occur outside the harbor seal pupping and weaning periods.

The City of San Diego will implement the following mitigation measures to help ensure the least practicable impact on marine mammals:

(1) Prohibition of construction during pupping season;

(2) Daily construction timing;

(3) Construction of visual and acoustic barriers;

(4) Use of Protected Species Observers;

(5) Establishment of buffer zones; and

(6) Potential abandonment survey.

Visual and acoustic barriers were constructed in 2013 to mitigate the effects of the construction activities. The visual and acoustic barriers were constructed of plywood, 1.2 to 2.4 m (4 to 8 ft) tall stood on end and held up by wood posts. The sheets of plywood were stood upright and held up with two wooden two by fours hinged to the top of the frame, so they could be collapsed and moved depending on the location and need for access by demolition and construction equipment. The barriers were placed at the site with input from NMFS Southwest Regional Office (SWRO) personnel so that they will hide as advantageously as possible the construction activities that may be seen by pinnipeds. The barriers appear to dampen the acoustic sound sources, but do not prevent sound from permeating the environment. The barriers also appear to hide and reduce visual cues that may stimulate behavioral reactions from the pinnipeds on the beach below. As the site is a beach with construction along the cliff and on flat areas above the cliff, a complete barrier cannot be constructed to hide all construction activities for the project. Once the walls of the lifeguard station's building are in place, much of the construction activities will take place above the Children's Pool beach (i.e., out of sight) as well as inside the building (i.e., a visual and partial sound barrier). There will be no activities in the ocean or closer to the water's edge and since harbor seals mate underwater in the ocean, there will be no impacts on mating activities. California sea lions and northern elephant seals are such infrequent users of this area and their rookeries are so far away (at least 104.6 km [65 miles] at offshore islands) that there will be no adverse impact on these species.

As part of the public comment process for the issuance of the previous 2013 IHA, NMFS modified several of the monitoring and mitigation measures included in the proposed IHA (78 FR 25958, May 3, 2013) for practicability reasons, and also included several additional measures in the final IHA (78 FR 40705, July 8, 2013). These included changing the pupping season from December 15th to May 15th and prohibiting construction activities during this time; extending construction activities from 7:00 a.m. to 7:00 p.m. to help assure that more work would be completed during the 2013 construction window; continuing monitoring for 60 days following the end of construction activities; and triggering a shut-down of construction activities in the unexpected event of abandonment of the Children's Pool site. The mitigation measure on scheduling the heaviest construction activities (with the highest sound levels) during the annual period of lowest haul-out occurrence (October to November) was originally included in the City of San Diego's Mitigated Negative Declaration when it was anticipated that the City of San Diego would obtain an IHA in the summer of 2012 and begin demolition and construction activities in the fall of 2012. This requirement has been removed because it is no longer practicable due to logistics, scheduling and to allow the planned activities to be completed before the next pupping season.

The activities planned by the applicant includes a variety of measures calculated to minimize potential impacts on marine mammals, including:

Prohibition of Construction During Pupping Season

Construction shall be prohibited during the Pacific harbor seal pupping season (December 15th to May 15th) and for an additional two weeks thereafter to accommodate lactation and weaning of late season pups. Thus, construction shall be prohibited from December 15th to June 1st.

Daily Construction Timing

Construction activities shall be scheduled, to the maximum extent practicable, during the daily period of lowest haul-out occurrence, from approximately 8:30 a.m. to 3:30 p.m. However, construction activities may be extended from 7:00 a.m. to 7:00 p.m. to help assure that the project can be completed during the 2014 construction window. Harbor seals typically have the highest daily or hourly haul-out period during the afternoon from 3:00 p.m. to 6:00 p.m.

Construction of Visual and Acoustic Barriers

A visual and acoustic barrier will be erected and maintained for the duration of the project to shield construction activities from beach view. The temporary barrier shall consist of 1/2 to 3/4 inch (1.3 to 1.9 centimeters [cm]) plywood constructed 1.8 to 2.4 m (6 to 8 ft) high depending on the location.

Protected Species Observers

Trained PSOs will be used to detect, document, and minimize impacts (i.e., possible shut-down of noise-generating operations [turning off the equipment so that in-air sounds associated with construction no longer exceed levels that are potentially harmful to marine mammals]) to marine mammals. More information about this measure is contained in the ''Monitoring'' section (below).

Establishment of Buffer Zones

The City of San Diego shall establish buffer zones (i.e., where sound pressure levels are at or above 90 dB re 20 μPa for harbor seals and/or at or above 100 dB re 20 μPa for all pinniped species except harbor seals [for in-air noise]) around the construction activities so that in-air sounds associated with the construction activities no longer exceed levels that are potentially harmful to marine mammals.

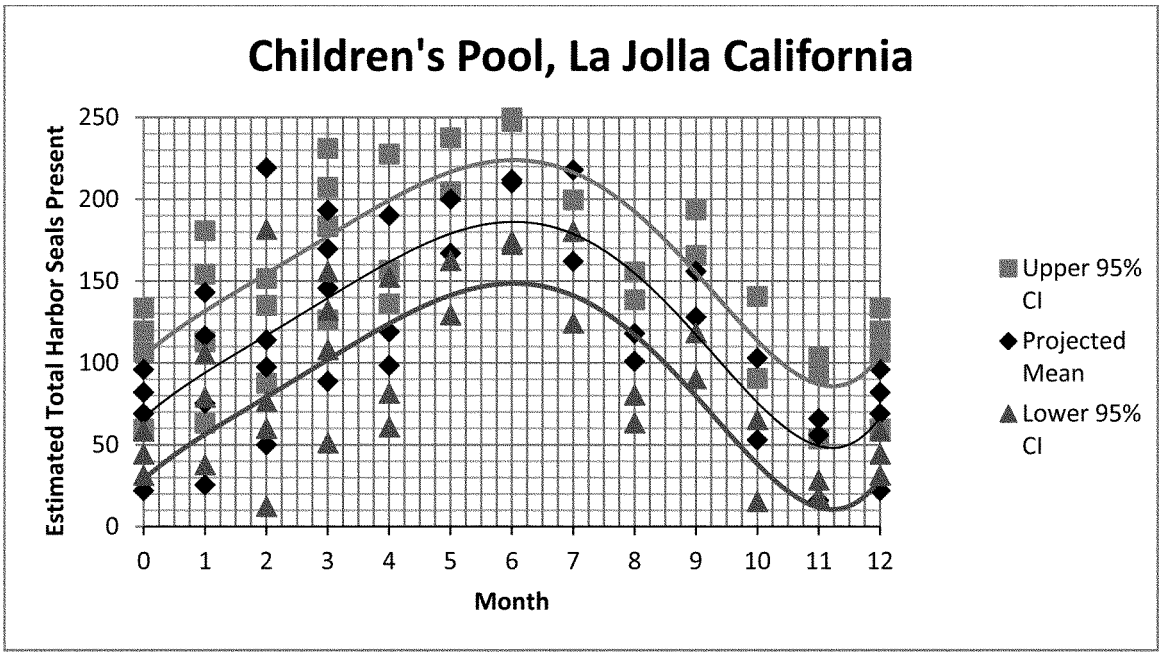
Timing Constraints for In-Air Noise

To minimize in-air noise impacts on marine mammals, construction activities shall be limited to the period when the species of concern will be least likely to be in the project area. The construction window for construction activities shall be from June 1 to December 15, 2014. The IHA may extend to June 1 through June 27, 2015 to finish the construction activities if needed. Avoiding periods when the highest number of marine mammal individuals are in the action area is another mitigation measure to protect marine mammals from the construction activities.

Potential Abandonment Survey

After the first two months of monitoring during construction activities, the City of San Diego will take the mean number of observed harbor seals at the Children's Pool in a 24-hour period across that two months and compare it to the mean of the lower 95 percent confidence interval in Figure 1 (see below). If the observed mean is lower, the City of San Diego will shut-down construction activities and work with NMFS and other harbor seal experts (e.g., Mark Lowry, Dr. Sarah Allen, Dr. Pamela Yochem, and/or Dr. Brent Stewart) to develop and implement a revised mitigation plan to further reduce the number of takes and potential impacts. Once a week every week thereafter, the City of San Diego will take the same mean of observed harbor seals across the previous three tide cycles (a tide cycle is approximately 2 weeks) and compare it to the 95% lower confidence interval in Figure 1 for the same time period. If the observed mean is lower, the City of San Diego will shut-down and take the action described above. If abandonment of the site is likely, monitoring will be expanded away from the Children's Pool to determine if animals have been temporarily displaced to known haul-out sites in the southern California area (e.g., north end of Torrey Pines, cave on the exposed ocean side of Point Loma, etc.). For the purpose of this action, NMFS will consider the Children's Pool site to possibly be abandoned if zero harbor seals are present each day during the daytime and nighttime hours for at least three tide cycles (a tide cycle is approximately 2 weeks), but this cannot be confirmed until observations continue to be zero during a full pupping and molting season.

Figure 1. Estimated total harbor seals by month based on counts at the site by Hanan & Associates, Yochem and Stewart, and Children's Pool docents. The polynomial curve fits to counts by months, which includes the projected mean as well as the upper 95% and lower 95% confidence intervals, was used to estimate harbor seals expected to be hauled-out by day.



More information regarding the City of San Diego's monitoring and mitigation measures for the construction activities at the Children's Pool Lifeguard Station can be found in the IHA application.

Mitigation Conclusions

NMFS carefully evaluated the applicant's mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. NMFS's evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation, including consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the activity.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels from construction equipment, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(3) A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels from construction equipment, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels from construction equipment, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(5) Avoidance of minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on NMFS's evaluation of the applicant's proposed measures, as well as other measures considered by NMFS or recommended by the public, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must, where applicable, set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) require that requests for ITAs include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels from construction equipment that we associate with specific adverse effects, such as behavioral harassment, TTS or PTS;

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict receive level, distance from the source, and other pertinent information);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

(4) An increased knowledge of the affected species; and

(5) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Monitoring

The City of San Diego developed a monitoring plan (see Appendix I, Mitigated Negative Declaration in the IHA application) based on discussions between the project biologist, Dr. Doyle Hanan, and NMFS biologists. The plan has been vetted by City of San Diego planners and reviewers. The plan has been formally presented to the public for review and comment. The City of San Diego has responded in writing and in public testimony (see City of San Diego Council Hearing, December 14, 2011) to all public concerns.

The monitoring plan involves surveying prior to construction activities, monitoring during construction activities by NMFS-approved PSOs with high-resolution binoculars and handheld digital sound level meters (measuring devices), and post-construction monitoring. The City of San Diego will include sound measurements at and near the construction site in their initial survey prior to the activities as a background and baseline for the project. While no specific acoustic study is planned, the City of San Diego's Mitigated Negative Declaration states that marine mammal monitoring shall be conducted for three to five days prior to construction and shall include hourly systematic counts of pinnipeds using the beach, Seal Rock, and associated reef areas. Monitoring three to five days prior to construction will provide baseline data regarding recent haul-out behavior and patterns as well as background noise levels near the time of the construction activities.

During the construction activities, monitoring shall assess behavior and potential behavioral responses to construction noise and activities. PSOs will observe the construction activities from a station along the breakwater wall and from the base of the cliff below the construction area. PSOs will be on site approximately 30 minutes before the start of construction activities and will remain on site until 30 minutes after activities have ceased. Visual digital recordings and photographs shall be used to document individuals and behavioral responses to construction. The City of San Diego (i.e., PSOs) plans to make hourly counts of the number of pinnipeds present and record sound or visual events that result in behavioral responses and changes, whether during construction or from public stimuli. During these events, pictures and video will also be taken when possible. The ''Mitigated Negative Declaration'' states ''monitoring shall assess behavior and potential behavioral responses to construction noise and activities. Visual digital recordings and photographs shall be used to document individuals and behavioral responses to construction.''

Monitors will have authority to stop construction as necessary depending on sound levels, pinniped presence, and distance from sound sources. Daily monitoring reports will be maintained for periodic summary reports to the City of San Diego and to NMFS. Observations will be entered into and maintained on Hanan & Associates computers. The City of San Diego plans to follow the reporting requirements in the Mitigated Negative Declaration, which states that ''the biologist shall document field activity via the Consultant Site Visit Record. The Consultant Site Visit Record shall be

either emailed or faxed to the City of San Diego's Mitigation Monitoring Coordination process (MMC) on the 1st day of monitoring, the 1st week of each month, the last day of monitoring, and immediately in the case of any undocumented discovery. The project biologist shall submit a final construction monitoring report to MMC within 30 days of construction completion.'' The MMC ''coordinates the monitoring of development projects and requires that changes are approved and implemented to be in conformance with the permit requirements and to minimize any damage to the environment.'' These documents will also be sent to NMFS. Finally, the City of San Diego has modified its monitoring program to include 60 days of monitoring post-construction activities. Following construction, the City of San Diego will have a program of onsite PSOs that will randomly select a day per week to monitor.

NMFS notes that the WAN's La Jolla Harbor Seal Webcam was attached to the old (now demolished) lifeguard station and is no longer available online (*http://www.wanconservancy.org/la_jolla_harbor_seal_earthcam.htm*). The City of San Diego has stated that there is no suitable place to mount the camera at the construction site. Therefore, the City of San Diego cannot do periodic checks using the webcam for monitoring purposes as required by the 2013 IHA. However, the camera was not expected to replace NMFS-qualified PSOs at the site making accurate counts, measuring sound levels and observing the public and the construction, as well as the harbor seals. In the old camera view, a person may have been able to see visual evidence of Level B harassment but probably would not have been able to distinguish between harassment from construction activities and harassment from the public since the camera had a limited scope and only showed the Children's Pool beach and pinnipeds (usually a specific portion of the beach, but not the reef nor nearby beaches).

Consistent with NMFS procedures, the following marine mammal monitoring and reporting shall be performed for the action:

(1) The PSO shall be approved by NMFS prior to construction activities.

(2) The NMFS-approved PSO shall attend the project site prior to, during, and after construction activities cease each day throughout the construction window.

(3) The PSO shall search for marine mammals within the Children's Pool area.

(4) The PSO shall be present during construction activities to observe for the presence of marine mammals in the vicinity of the specified activity. All such activity will occur during daylight hours (i.e., 30 minutes after sunrise and 30 minutes before sunset). If inclement weather limits visibility within the area of effect, the PSO will perform visual scans to the extent conditions allow.

(5) If marine mammals are sighted by the PSO within the acoustic threshold areas, the PSO shall record the number of marine mammals within the area of effect and the duration of their presence while the noise-generating activity is occurring. The PSO will also note whether the marine mammals appeared to respond to the noise and, if so, the nature of that response. The PSO shall record the following information: Date and time of initial sighting, tidal stage, weather conditions, Beaufort sea state, species, behavior (activity, group cohesiveness, direction and speed of travel, etc.), number, group composition, distance to sound source, number of animals impacted, construction activities occurring at time of sighting, and monitoring and mitigation measures implemented (or not implemented). The observations will be reported to NMFS.

(6) A final report will be submitted summarizing all in-air acoustic effects from construction activities and marine mammal monitoring during the time of the authorization, and any long term impacts from the project.

A written log of dates and times of monitoring activity will be kept. The log shall report the following information:

- Time of observer arrival on site;
- Time of the commencement of in-air noise generating activities, and description of the activities;
- Distances to all marine mammals relative to the sound source;
- Distances from the sound meter to each sound-producing activity when conducting sound measurements;
- For harbor seal observations, notes on seal behavior during noise-generating activity, as described above, and on the number and distribution of seals observed in the project vicinity;
- For observations of all marine mammals other than harbor seals, the time and duration of each animal's presence in the project vicinity; the number of animals observed; the behavior of each animal, including any response to noise-generating activities;
- Time of the cessation of in-air noise generating activities; and
- Time of observer departure from site.

All monitoring data collected during construction will be included in the biological monitoring notes to be submitted. A final report summarizing the construction monitoring and any general trends observed will also be submitted to NMFS within 90 days after monitoring has ended during the period of the lifeguard station construction.

Reporting

The City of San Diego will notify NMFS Headquarters and the NMFS Southwest Regional Office prior to initiation of the construction activities. A draft final report must be submitted to NMFS within 90 days after the conclusion of the construction activities of the Children's Pool Lifeguard Station. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA, including dates and times of operations and all marine mammal sightings (dates, times, locations, species, behavioral observations [activity, group cohesiveness, direction and speed of travel, etc.], tidal stage, weather conditions, Beaufort sea state and wind force, associated construction activities). A final report must be submitted to the Regional Administrator within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

While the IHA does not authorize injury (i.e., Level A harassment), serious injury, or mortality, should the applicant, contractor, monitor or any other individual associated with the construction project observe an injured or dead marine mammal, the incident (regardless of cause) will be reported to NMFS as soon as practicable. The report should include species or description of animal, condition of animal, location, time first found, observed behaviors (if alive) and photo or video, if available.

In the unanticipated event that the City of San Diego discovers a live stranded marine mammal (sick and/or injured) at Children's Pool, they shall immediately contact Sea World's stranded animal hotline at 1–800–541–7235. Sea World shall also be notified if a dead stranded pinniped is found so that a necropsy can be performed. In all cases, NMFS shall be notified as well, but for immediate response purposes, Sea World shall be contacted first.

Reporting Prohibited Take—In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, the City of San Diego shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of

Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov, Howard.Goldstein@noaa.gov,* and the West Coast Regional Stranding Coordinator (*Justin.Greenman@noaa.gov*). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- The type of activity involved;
- Description of the circumstances during and leading up to the incident;
- Status of all sound source use in the 24 hours preceding the incident; water depth; environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of marine mammal observations in the 24 hours preceding the incident; species identification or description of the animal(s) involved;
- The fate of the animal(s); and photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with the City of San Diego to determine the action necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The City of San Diego may not resume its activities until notified by NMFS via letter, email, or telephone.

Reporting an Injured or Dead Marine Mammal with an Unknown Cause of Death—In the event that the City of San Diego discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), the City of San Diego will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov, Howard.Goldstein@noaa.gov,* and the NMFS West Coast Regional Office (1–866–767–6114), and/or by email to the West Coast Regional Stranding Coordinator (*Justin.Greenman@noaa.gov*). The report must include the same information identified above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the City of San Diego to determine whether modification of the activities is appropriate.

Reporting an Injured or Dead Marine Mammal Not Related to the Activities—In the event that the City of San Diego discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the City of San Diego shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov, Howard.Goldstein@noaa.gov,* and the NMFS West Coast Regional Office (1–866–767–6114) and/or by email to the West Coast Regional Stranding Coordinator (*Justin.Greenman@noaa.gov*) within 24 hours of the discovery. The City of San Diego shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

Monitoring Results From Previously Authorized Activities

Hanan & Associates, Inc., on behalf of the City of San Diego, conducted marine mammal and in-air sound monitoring at six locations during demolition and construction activities at the Children's Pool Lifeguard Station in La Jolla, California from June 3, 2013 to February 12, 2014. Demolition and construction activities began on July 10, 2013 and were halted for the Pacific harbor seal pupping season (December 15, 2013 to June 1, 2014). During 115 days of visual and acoustic observations, Hanan & Associates counted a total of 61,631 Pacific harbor seals and 26,037 people. During the 2013 demolition and construction activities, Hanan & Associates observed a total of 15,673 takes by Level B harassment (i.e., alerts, movements, and flushes) that could be attributed to demolition and construction activities (5,095 takes), the general public (8,639 takes), and other sources (1,939 takes). As of April 15, 2014, at least 60 harbor seal pups (including 2 still births) have been born at the Children's Pool and there has been no indication of abandonment. In addition to the Pacific harbor seal sightings, PSOs recorded 11 sightings of cetaceans (gray whales and bottlenose dolphins), 4 sightings of California sea lions (1 juvenile, 3 adult), and 2 northern elephant seals (both juveniles) at the Children's Pool.

Hanan & Associates recorded mean in-air sound levels of 69.2 dB re 20 μPa (range of 55.6 to 93.7 dB re 20 μPa) during non-demolition and construction activities and 70.3 dB re 20 μPa (range of 50.7 to 103.1 dB re 20 μPa) during demolition and construction activities. During 2013, measured sound levels from the demolition equipment reaching the pinnipeds did not exceed approximately 90 dB at the haul-out area closest to the demolition and construction activities, nor did they exceed a peak of about 83 dB re 20 μPa at the mean hauling-out distance (30.5 m).

More information on the monitoring results from the City of San Diego's previous demolition and construction activities at the La Jolla Children's Pool Lifeguard Station can be found in the final monitoring report.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

NMFS's current underwater and in-air acoustic exposure criteria:

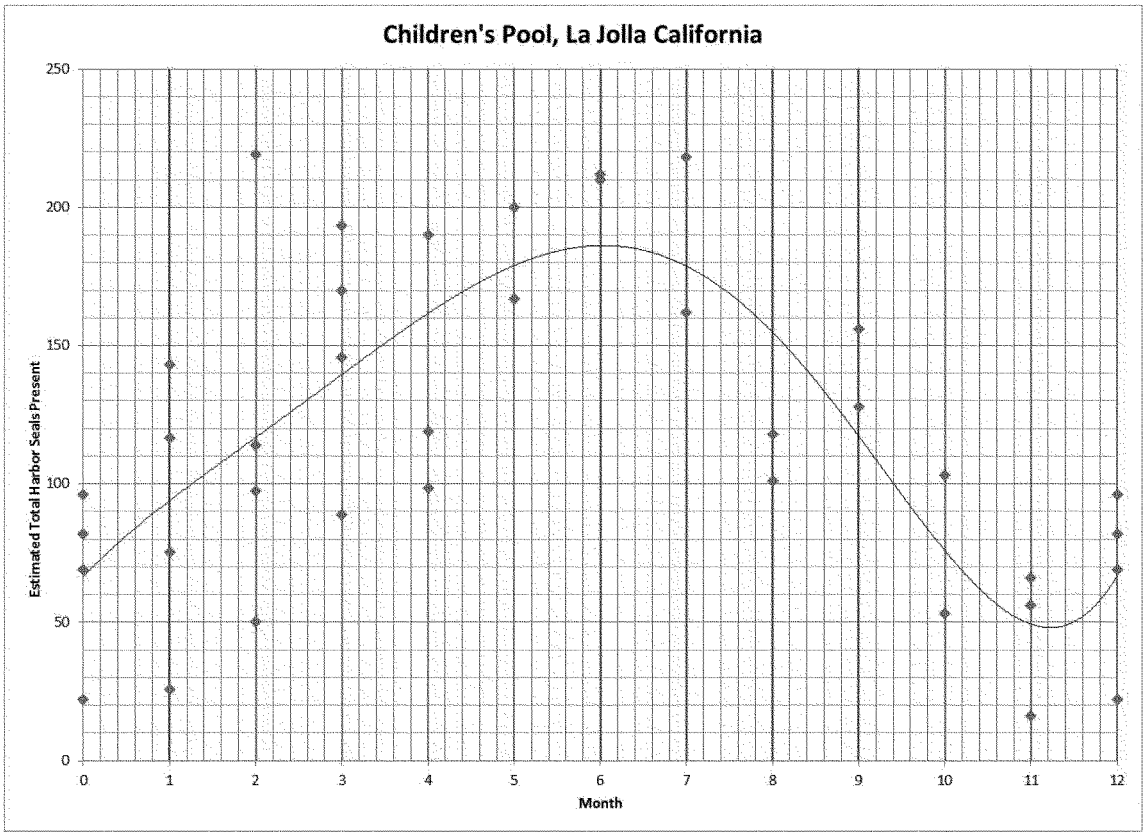
Criterion	Criterion Definition	Threshold
Underwater Impulsive (Non-Explosive) Sound		
Level A harassment (injury)	Permanent threshold shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 μPa-m (root means square [rms]) (cetaceans) 190 dB re 1 μPa-m (rms) (pinnipeds).
Level B harassment	Behavioral disruption (for impulsive noise)	160 dB re 1 μPa-m (rms).
Level B harassment	Behavioral disruption (for continuous noise)	120 dB re 1 μPa-m (rms).

Criterion	Criterion Definition	Threshold
	In-Air Sound	
Level A harassment	NA	NA.
Level B harassment	Behavioral disruption	90 dB re 20 μPa (harbor seals) 100 dB re 20 μPa (all other pinniped species) NA (cetaceans).

The City of San Diego and NMFS anticipate takes of Pacific harbor seals, California sea lions, and northern elephant seals by Level B (behavioral) harassment only incidental to the construction project at the Children's Pool. No takes by injury (Level A harassment), serious injury, or mortality are expected. NMFS will consider pinnipeds behaviorally reacting to the construction activities by flushing into the water, moving more than 1 m (3.3 ft), but not into the water; becoming alert and moving, but not moving more than 1 m; and changing direction of current movements by individuals as behavioral criteria for take by Level B harassment.

With construction activities scheduled to begin in June 2014, the City of San Diego expects a range of 0 to 190 harbor seals to be present daily during June and a seasonal decline through November to about 0 to 50 harbor seals present daily. If all of the estimated harbor seals present are taken by incidental harassment each day, there could be a maximum of 10,000 takes (i.e., approximately 2,947 adult males and 2,211 juvenile males, 2,842 adult females and 2,000 juvenile females based on age and sex ratios presented in Harkonen *et al.,* 1999) over the entire duration of the activities. An unknown portion of the incidental takes will be from repeated exposures as harbor seals leave and return to the Children's Pool area. A polynomial curve fit to counts by month was used by the City of San Diego to estimate the number of harbor seals expected to be hauled-out by day (see below and Figure 2 of the IHA application).

Figure 2. Estimated total harbor seals by month based on counts at the site by Hanan & Associates, Yochem and Stewart, and Children's Pool docents. The polynomial curve fits to counts by months was used to estimate harbor seals expected to be hauled-out by day.



Assuming the total seals predicted to haul-out daily at the Children's Pool are exposed to sound levels that are considered Level B harassment during days where sound is predicted to exceed 90 dB at the construction site (65 days), there could be a maximum of approximately 10,000 incidental takes (i.e., exposures) of approximately up to 600 individual Pacific harbor seals over the duration of the activities. The estimated 600 individual Pacific harbor seals will be taken by Level B harassment multiple times during the construction activities.

Very few California sea lions and/or northern elephant seals are ever observed at the Children's Pool (i.e., one or two individuals). The City of San

Diego requests the authority to incidentally take (i.e., exposures) 10,000 Pacific harbor seals, 100 California sea lions, and 25 northern elephant seals, which will equate to 600, 2, and 1 individuals, respectively, being exposed multiple times. More information on the number of takes authorized, and the approximate percentage of the stock for the three species in the action area can be found in Table 2 (below).

TABLE 2—SUMMARY OF THE AUTHORIZED INCIDENTAL TAKE BY LEVEL B HARASSMENT OF PINNIPEDS FOR THE CITY OF SAN DIEGO'S CONSTRUCTION ACTIVITIES GENERATING IN-AIR NOISE AT THE CHILDREN'S POOL LIFEGUARD STATION IN LA JOLLA, CA

Species	Take authorization (number of exposures)	Estimated number of individuals taken	Abundance	Approximate percentage of estimated stock (individuals)	Population trend
Pacific harbor seal	10,000	600	30,196—California stock	1.98	Increased in California 1981 to 2004.
California sea lion	100	2	296,750—U.S. stock	<0.01	Increasing.
Northern elephant seal	25	1	124,000—California breeding stock.	<0.01	Increasing through 2005, now stable.

Encouraging and Coordinating Research

Each construction phase and potential harassment activity will be evaluated as to observed sound levels and any pinniped reaction by type of sound source. Flushing will be documented by sex and age class. These data will provide information for IHA permitting in future projects. Potential additional mitigation (other than what is already required) will be discussed and suggested in the final report. NMFS has encouraged the City of San Diego to work with WAN to review and analyze any available data to determine baseline information as well as evaluate the impacts from the construction activities on the pinnipeds at the Children's Pool.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) of the MMPA requires NMFS to determine that the authorization will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are not relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for subsistence purposes.

Analysis and Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

In making a negligible impact determination, NMFS evaluated factors such as:

(1) The number of anticipated injuries, serious injuries, or mortalities;

(2) The number, nature, and intensity, and duration of Level B harassment; and

(3) The context in which the takes occur (i.e., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(4) The status of the stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures.

No injuries (Level A harassment), serious injuries, or mortalities are anticipated to occur as a result of the City of San Diego's construction activities, and none are authorized by NMFS. The planned activities are not expected to result in the alteration of reproductive behaviors, and the potentially affected species will be subjected to only temporary and minor behavioral impacts.

Behavioral disturbance may potentially occur incidental to the visual presence of humans and construction activities; however, pinnipeds at this site have likely adapted or become acclimated to human presence at this site. These ''urbanized'' harbor seals do not exhibit sensitivity at a level similar to that noted in harbor seals in some other regions affected by human disturbance (Allen *et al.,* 1984; Suryan and Harvey, 1999; Henry and Hammil, 2001; Johnson and Acevedo-Gutierrez, 2007; Jansen *et al.,* 2006; Hanan & Associates, 2011). Therefore, there is a high likelihood that many of the harbor seals present during the construction activities will not be flushed off of the beach or rocks, as pinnipeds at this site are conditioned to human presence and loud noises (Hanan, 2004; Hanan & Associates, 2011) (see *http://www.youtube.com/watch?v=4IRUYVTULsg*).

As discussed in detail above, the project scheduling avoids sensitive life stages for Pacific harbor seals. Planned project activities producing in-air noise will commence in June and end by December 15. The commencement date occurs after the end of the pupping season, affords additional time to accommodate lactation and weaning of season pups, and takes into account periods of lowest haul-out occurrence. The end date falls approximately two weeks prior to January 1, the time after which most births occur, providing protection for pregnant and nursing harbor seals that may give birth before January 1.

Table 2 of this document outlines the number of Level B harassment takes that are anticipated as a result of these activities. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see ''Potential Effects on Marine Mammals'' section above) in this notice, this activity is not expected to impact rates of annual recruitment or survival for the affected species or stock (i.e., California stock of Pacific harbor seals, U.S. stock of California sea lions, and California breeding stock of northern elephant seals), particularly given the required mitigation, monitoring, and reporting measures that will be implemented to minimize impacts to marine mammals.

The Children's Pool is one of the three known haul-out sites for Pacific harbor seal in San Diego County and the only rookery in San Diego County and the only mainland rookery on the U.S. west coast for this species between the border of Mexico and Point Mugu in Ventura County, CA. For the other marine mammal species that may occur within the action area (i.e., California sea lions and northern elephant seals), there are no known designated or important feeding and/or reproductive areas. Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (i.e., 24 hour cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). However, Pacific harbor seals have been hauling-out at Children's Pool during the year for many years (including during pupping season and while females are pregnant) while being exposed to anthropogenic sound sources such as vehicle traffic, human voices, etc. and other stimuli from human presence. While studies have shown the types of sound sources used during the construction activities have the potential to displace marine mammals from breeding areas for a prolonged period (e.g., Lusseau and Bejder, 2007; Weilgart, 2007), based on the best available information, this does not seem to be the case for the Pacific harbor seals at the Children's Pool. The Pacific harbor seals have repeatedly hauled-out to pup over many years and the NMFS Stock Assessment Reports (NMFS, 2011) for this stock have shown that the population is increasing and is considered stable. Additionally, the construction activities will increase sound levels in the environment in a relatively small area surrounding the lifeguard station (compared to the range of the animals), and some animals may only be exposed to and harassed by sound for less than a day.

NMFS's practice has been to apply the 90 dB re 20 μPa and 100 dB re 20 μPa received level threshold for in-air sound levels to determine whether take by Level B harassment occurs. Southall *et al.* (2007) provide a severity scale for ranking observed behavioral responses of both free-ranging marine mammals and laboratory subjects to various types of anthropogenic sound (see Table 4 in Southall *et al.* [2007]). NMFS has not established a threshold for Level A harassment (injury) for marine mammals exposed to in-air noise, however, Southall *et al.* (2007) recommends 149 dB re 20 μPa (peak flat) as the potential threshold for injury from in-air noise for all pinnipeds. No in-air sounds from construction activities will exceed 110 dB at the source and no measured sounds approached that sound level in 2013.

Of the 3 marine mammal species under NMFS jurisdiction that may or are known to likely occur in the action area, none are listed as threatened or endangered under the ESA. No incidental take has been requested to be authorized for ESA-listed species as none are expected to be within the action area. To protect these animals (and other marine mammals in the action area), the City of San Diego shall schedule construction activities with highest sound levels during the daily period of lowest haul-out occurrence; limit activities to the hours of daylight; erect a temporary visual and acoustic barrier; use PSOs and prohibit construction activities during harbor seal pupping season. No injury, serious injury, or mortality is expected to occur and due to the nature, degree, and context of the Level B harassment anticipated, the activity is not expected to impact rates of recruitment or survival.

Although behavioral modifications, including temporarily vacating the area during the construction activities, may be made by these species to avoid the resultant acoustic disturbance, the availability of alternate areas within these areas for species and the short and sporadic duration of the activities, have led NMFS to determine that the taking by Level B harassment from the specified activity will have a negligible impact on the affected species in the specified geographic region. NMFS believes that the time period of the construction activities, the requirement to implement mitigation measures (e.g., prohibiting construction activities during pupping season, scheduling operations to periods of the lowest haul-out occurrence, visual and acoustic barriers, and the addition of a new measure that helps protect against unexpected abandonment of the site), and the inclusion of the monitoring and reporting measures, will reduce the amount and severity of the potential impacts from the activity to the degree that will have a negligible impact on the species or stocks in the action area.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS finds that the total marine mammal take from the City of San Diego's activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

As mentioned previously, NMFS estimates that 3 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. It is estimated that up to 600 individual Pacific harbor seals, 2 individual California sea lions, and 1 northern elephant seal will be taken (multiple times) by Level B harassment, which will be approximately 1.98, less than 0.01, and less than 0.01% of the respective California, U.S., and California breeding stocks. The population estimates for the marine mammal species that may be taken by Level B harassment were provided in Table 2 of this document.

NMFS has determined, provided that the aforementioned mitigation and monitoring measures are implemented, that the impact of the construction activities at the Children's Pool Lifeguard Station in La Jolla, CA, June 2014 to June 2015, may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of small numbers of certain species of marine mammals. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks. See Table 2 for the authorized take numbers of marine mammals.

Endangered Species Act

NMFS (Permits and Conservation Division) has determined that an ESA section 7 consultation for the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity is not necessary for any ESA-listed marine mammal species under its jurisdiction, as the planned action will not affect ESA-listed species.

National Environmental Policy Act

To meet NMFS's National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) requirements for the issuance of an IHA to the City of San Diego, NMFS prepared an Environmental Assessment (EA) in 2013 for a similar activity titled ''Environmental Assessment on the Issuance of an Incidental Harassment Authorization to the City of San Diego to Take Marine Mammals by Harassment Incidental to Demolition and Construction Activities at the Children's Pool Lifeguard Station in La Jolla, California'' to comply with the Council of Environmental Quality (CEQ) regulations and NOAA Administrative Order (NAO) 216–6. Based on the analysis in the EA and the underlying information in the record, including the IHA application, proposed IHA, and public comments, NMFS prepared and signed a Finding of No Significant Impact (FONSI) determining that preparation of an Environmental Impact Statement was not required. The FONSI was signed on June 28, 2013 prior to the issuance of the IHA for the City of San Diego's activities from June 2013 to June 2014. The currently planned construction activities that will be covered by the IHA from June 2014 to June 2015 are similar to the demolition and construction activities described in the 2013 EA. NMFS has reviewed CEQ's regulations and has determined that it is not necessary to supplement the 2013 EA because the effects of this IHA fall within the scope of those documents and do not require further supplementation. Based on the public comments received in response to the publication in the **Federal Register** notice and proposed IHA, NMFS has reaffirmed its FONSI.

Authorization

NMFS has issued an IHA to the City of San Diego for conducting construction activities at the La Jolla Children's Pool Lifeguard Station, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: May 30, 2014.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–13213 Filed 6–5–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 140514424–4424–01]

RIN 0660–XC010

Big Data and Consumer Privacy in the Internet Economy

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Request for Public Comment.

SUMMARY: The National Telecommunications and Information Administration (''NTIA'') is requesting comment on ''big data'' developments and how they impact the Consumer Privacy Bill of Rights.

DATES: Comments are due on or before 5 p.m. Eastern Time on August 5, 2014.

ADDRESSES: Written comments may be submitted by email to *privacyrfc2014@ntia.doc.gov.* Comments submitted by email should be machine-searchable and should not be copy-protected. Written comments also may be submitted by mail to the National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Attn: Privacy RFC 2014, Washington, DC 20230. Responders should include the name of the person or organization filing the comment, as well as a page number, on each page of their submissions. All comments received are a part of the public record and will generally be posted to *http://www.ntia.doc.gov/category/internet-policy-task-force* without change. All personal identifying information (for example, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NTIA will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: John Morris, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230; telephone (202) 482–1689; email *jmorris@ntia.doc.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

SUPPLEMENTARY INFORMATION:

Background: In January 2014, President Obama asked Counselor to the President John Podesta to lead a team of advisors, including Secretary of Commerce Penny Pritzker, Secretary of Energy Ernest Moniz, Office of Science and Technology Policy Director John Holdren, and National Economic Council Director Jeffrey Zients, in conducting a 90-day study examining how ''big data'' will transform the way individuals live and work and impact the relationships among government, citizens, businesses, and consumers.

On May 1, 2014, the working group published its findings and recommendations as *Big Data: Seizing Opportunities, Preserving Values* (the ''Big Data Report'').[1] The Big Data Report notes that big data analysis can ''become an historic driver of progress, helping our nation perpetuate the civic and economic dynamism that has long been its hallmark.''[2] At the same time, big data ''raises considerable questions about how our framework for privacy protection applies in a big data ecosystem'' and has the potential to ''eclipse longstanding civil rights protections in how personal information is used in housing, credit, employment, health, education, and the marketplace.''[3]

The Big Data Report specifically addresses privacy and the Administration's Consumer Privacy Bill of Rights.[4] The Big Data Report notes that:

As President Obama made clear in February 2012, the Consumer Privacy Bill of Rights and the associated Blueprint for Consumer Privacy represent ''a dynamic model of how to offer strong privacy protection and enable ongoing innovation in new information technologies.'' The Consumer Privacy Bill of Rights is based on the Fair Information Practice Principles.

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[1] Executive Office of the President, *Big Data: Seizing Opportunities, Preserving Values* (the ''Big Data Report'') (May 2014), *available at: http://www.whitehouse.gov/sites/default/files/docs/big_data_privacy_report_may_1_2014.pdf.*

[2] Big Data Report, Letter to the President from John Podesta, Counselor to the President; Penny Pritzker, Secretary of Commerce; Ernest J. Moniz, Secretary of Energy; John Holdren, Director, Office of Science and Technology Policy; and Jeffrey Zients, Director, National Economic Council (May 1, 2014).

[3] *Id.*

[4] In February 2012, the White House released *Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy* (the ''Privacy Blueprint''), *available at: http://www.whitehouse.gov/sites/default/files/privacy-final.pdf.* The Privacy Blueprint includes the Consumer Privacy Bill of Rights, which applies seven Fair Information Practice Principles to contemporary commercial data practices. The Blueprint also calls for Congress to pass baseline consumer privacy legislation.

Some privacy experts believe nuanced articulations of these principles are flexible enough to address and support new and emerging uses of data, including big data. Others, especially technologists, are less sure, as it is undeniable that big data challenges several of the key assumptions that underpin current privacy frameworks, especially around collection and use. These big data developments warrant consideration in the context of how to viably ensure privacy protection and what practical limits exist to the practice of notice and consent.[5]

The Big Data Report then includes a specific recommendation:

The Department of Commerce should promptly seek public comment on how the Consumer Privacy Bill of Rights could support the innovations of big data while at the same time responding to its risks, and how a responsible use framework, as articulated in Chapter 5 [of the Big Data Report], could be embraced within the framework established by the Consumer Privacy Bill of Rights. Following the comment process, the Department of Commerce should work on draft legislative text for consideration by stakeholders and for submission by the President to Congress.[6]

Also, on May 1, 2014, the President's Council of Advisors on Science and Technology (''PCAST'') released *Big Data and Privacy: A Technological Perspective* (the ''PCAST Report'').[7] The PCAST Report ''was developed to complement and inform the analysis of [the Big Data Report] . . . examining the nature of current technologies for managing and analyzing big data and for preserving privacy, [and] considering how those technologies are evolving.'' [8]

Request for Comment: NTIA, the Department of Commerce agency principally responsible for advising the President on telecommunications and information policy issues, seeks comment on the questions set out below. NTIA and the Department invite public comment on these issues from all stakeholders, including the commercial, academic, and public interest sectors, legislators, and from governmental consumer protection and enforcement agencies. As part of this effort, NTIA and the Department will consider the submissions to the White House Office of Science and Technology Policy's March 4, 2014 Request for Information regarding big data (the ''Big Data RFI'').[9] There is no need for any individual or organization to resubmit points made in that process, but anyone who filed comments there is welcome to supplement their prior submission with responses to the questions below.

The Big Data Report, the PCAST Report, the submissions responding to the Big Data RFI, and the three big data workshops conducted in coordination with the Big Data Working Group, taken together, produced a broad range of ideas about and possible approaches to big data, and NTIA and the Department seek comment about some of those ideas and proposals below.[10]

Broad Questions Raised by the Big Data Report and the PCAST Report

1. How can the Consumer Privacy Bill of Rights, which is based on the Fair Information Practice Principles, support the innovations of big data while at the same time responding to its risks?

2. Should any of the specific elements of the Consumer Privacy Bill of Rights be clarified or modified to accommodate the benefits of big data? [11] Should any of those elements be clarified or modified to address the risks posed by big data?

3. Should a responsible use framework, as articulated in Chapter 5 of the Big Data Report, be used to address some of the challenges posed by big data? If so, how might that framework be embraced within the Consumer Privacy Bill of Rights? Should it be? In what contexts would such a framework be most effective? Are there limits to the efficacy or appropriateness of a responsible use framework in some contexts? What added protections do usage limitations or rules against misuse provide to users?

4. What mechanisms should be used to address the practical limits to the ''notice and consent'' model noted in the Big Data Report? How can the Consumer Privacy Bill of Rights' ''individual control'' and ''respect for context'' principles be applied to big data? Should they be? How is the notice and consent model impacted by recent advances concerning ''just in time'' notices?

5. Is there existing research or other sources that quantify or otherwise substantiate the privacy risks, and/or frequency of such risks, associated with big data? Do existing resources quantify or substantiate the privacy risks, and/or frequency of such risks, that arise in non-big data (''small data'') contexts? How might future research best quantify or substantiate these privacy risks?

6. The Privacy Blueprint stated:

The Administration urges Congress to pass legislation adopting the Consumer Privacy Bill of Rights . . . Congress should act to protect consumers from violations of the rights defined in the Administration's proposed Consumer Privacy Bill of Rights. These rights provide clear protection for consumers and define rules of the road for the rapidly growing marketplace for personal data. The legislation should permit the FTC and State Attorneys General to enforce these rights directly . . . To provide greater legal certainty and to encourage the development and adoption of industry-specific codes of conduct, the Administration also supports legislation that authorizes the FTC to review codes of conduct and grant companies that commit to adhere—and do adhere—to such codes forbearance from enforcement of provisions of the legislation.[12]

How can potential legislation with respect to consumer privacy support the innovations of big data while responding to its risks?

Specific Questions Raised by the Big Data Report and the PCAST Report

7. The PCAST Report states that in some cases ''it is practically impossible'' with any high degree of assurance for data holders to identify and delete ''all the data about an individual'' particularly in light of the distributed and redundant nature of data storage.[13] Do such challenges pose privacy risks? How significant are the privacy risks, and how might such challenges be addressed? Are there particular policy or technical solutions that would be useful to consider? Would concepts of ''reasonableness'' be useful in addressing data deletion?

8. The Big Data Report notes that the data services sector is regulated with respect to certain uses of data, such that consumers receive notice of some decisions based on brokered data, access to the data, and the opportunity to correct or delete inaccurate data. The Big Data Report also notes that other uses of data by data brokers ''could have significant ramifications for targeted

[5] Big Data Report at 61.

[6] *Id.*

[7] Executive Office of the President, President's Council of Advisors on Science and Technology, *Report to the President, Big Data and Privacy: A Technological Perspective* (the ''PCAST Report'') (May 1, 2014), *available at: http://www.whitehouse.gov/sites/default/files/microsites/ostp/PCAST/pcast_big_data_and_privacy_-_may_2014.pdf.*

[8] PCAST Report, Letter to the President from John P. Holdren, Co-Chair, PCAST, and Eric S. Lander, Co-Chair, PCAST (May 1, 2014).

[9] The Big Data RFI is available at: *https://www.federalregister.gov/articles/2014/03/04/2014–04660/government-big-data-request-for-information.* Responses to the RFI are available at: *http://www.whitehouse.gov/sites/default/files/microsites/ostp/PCAST/big_data_rfi_responses.pdf.*

[10] More information regarding the Big Data Privacy Workshops is available at: *www.whitehouse.gov/issues/technology/big-data-review.*

[11] Big Data Report at 48, 61.

[12] Privacy Blueprint at 35.

[13] PCAST Report at 39.

individuals.'' [14] How significant are such risks? How could they be addressed in the context of the Consumer Privacy Bill of Rights? Should they be? Should potential privacy legislation impose similar obligations with respect to uses of data that are not currently regulated?

9. How significant are the privacy risks posed by unindexed data backups and other ''latent information about individuals?'' [15] Do standard methods exist for determining whether data is sufficiently obfuscated and/or unavailable as to be irretrievable as a practical matter?

10. The PCAST Report notes that ''data fusion occurs when data from different sources are brought into contact and new, often unexpected, phenomena emerge;'' this process ''frequently results in the identification of individual people,'' even when the underlying data sources were not linked to individuals' identities.[16] How significant are the privacy risks associated with this? How should entities performing big data analysis implement individuals' requests to delete personal data when previously unassociated information becomes associated with an individual at a subsequent date? Do existing systems enable entities to log and act on deletion requests on an ongoing basis?

11. As the PCAST Report explains, ''it is increasingly easy to defeat [de-identification of personal data] by the very techniques that are being developed for many legitimate applications of big data.'' [17] However, de-identification may remain useful as an added safeguard in some contexts, particularly when employed in combination with policy safeguards.[18] How significant are the privacy risks posed by re-identification of de-identified data? How can de-identification be used to mitigate privacy risks in light of the analytical capabilities of big data? Can particular policy safeguards bolster the effectiveness of de-identification? Does the relative efficacy of de-identification depend on whether it is applied to public or private data sets? Can differential privacy mitigate risks in some cases? What steps could the government or private sector take to expand the capabilities and practical application of these techniques?

12. The Big Data Report concludes that ''big data technologies can cause societal harms beyond damages to privacy, such as discrimination against individuals and groups'' and warns ''big data could enable new forms of discrimination and predatory practices.'' [19] The Report states that ''it is the responsibility of government to ensure that transformative technologies are used fairly'' and urges agencies to determine ''how to protect citizens from new forms of discrimination that may be enabled by big data technologies.'' [20] Should the Consumer Privacy Bill of Rights address the risk of discriminatory effects resulting from automated decision processes using personal data, and if so, how? How could consumer privacy legislation (either alone or in combination with anti-discrimination laws) make a useful contribution to addressing this concern? Should big data analytics be accompanied by assessments of the potential discriminatory impacts on protected classes?

Possible Approaches to Big Data Suggested by the Reports and the Big Data Workshops

13. Can accountability mechanisms play a useful role in promoting socially beneficial uses of big data while safeguarding privacy? Should ethics boards, privacy advisory committees, consumer advisory boards, or Institutional Review Boards (IRBs) be consulted when practical limits frustrate transparency and individuals' control over their personal information? How could such entities be structured? How might they be useful in the commercial context? Can privacy impact assessments and third-party audits complement the work of such entities? What kinds of parameters would be valuable for different kinds of big data analysts to consider, and what kinds of incentives might be most effective in promoting their consideration?

14. Would a system using ''privacy preference profiles,'' as discussed in Section 4.5.1 of the PCAST Report, mitigate privacy risks regarding big data analysis? [21]

15. Related to the concept of ''privacy preference profiles,'' some have urged that privacy preferences could be attached to and travel with personal data (in the form of metadata), thereby enabling recipients of data to know how to handle the data.[22] Could such an approach mitigate privacy risks regarding big data analysis?

16. Would the development of a framework for privacy risk management be an effective mechanism for addressing challenges with big data? [23]

17. Can emerging privacy enhancing technologies mitigate privacy risks to individuals while preserving the benefits of robust aggregate data sets?

18. How can the approaches and issues addressed in Questions 14–17 be accommodated within the Consumer Privacy Bill of Rights?

19. What other approaches to big data could be considered to promote privacy?

20. What other questions should we be asking about big data and consumer privacy?

Dated: June 3, 2014.

Angela M. Simpson,

Deputy Assistant Secretary for Communications and Information.

[FR Doc. 2014–13195 Filed 6–5–14; 8:45 am]

BILLING CODE 3510–60–P

[14] Big Data Report at 45.

[15] PCAST Report at 39.

[16] *Id.* at 21.

[17] *Id.* at 38.

[18] *Id.* at 39.

[19] Big Data Report at 51, 53.

[20] *Id.* at 49.

[21] PCAST Report at 40–41.

[22] *Id.* at 41.

[23] *See* National Institute of Standards and Technology, Privacy Engineering Workshop (Apr. 9–10, 2014), *available at: http://www.nist.gov/itl/csd/privacy-engineering-workshop.cfm.*

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase from People Who are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and a service previously furnished by such agencies.

DATES: *Comments must be received on or before:* 7/7/2014.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN: 8540–00–NIB–0093—Tissue, Toilet, 1-Ply, White, 96 rolls
NSN: 8540–00–NIB–0094—Tissue, Toilet, 2-Ply, White, 96 rolls
NPA: Outlook-Nebraska, Inc., Omaha, NE
Contracting Activity: General Services Administration, New York, NY
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration, New York, NY.

NSN: 7490–00–NIB–0044—Paper Shredder, High Security, Level 6, Cabinet Style
NSN: 7490–00–NIB–0045—Paper Shredder, Desk-Side, Personal, Level 3, Cross-Cut
NPA: L.C. Industries, Inc., Durham, NC
Contracting Activity: General Services Administration, New York, NY
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration, New York, NY.

Individual Lockout Devices

NSN: 5340–00–NIB–0160—Safety Padlock, Red, 1.5″ Shackle
NSN: 5340–00–NIB–0162—Hasp, Steel with Tabs, 1″
NSN: 5340–00–NIB–0163—Large Plug Lockout with Label
NSN: 5340–00–NIB–0164—Small Plug Lockout with Label
NSN: 5340–00–NIB–0166—Gate Valve Lockout, 1″ to 2–1/fxsp0;2″
NSN: 5340–00–NIB–0169—Gate Valve Lockout, 2–1/2″ to 5″
NSN: 5340–00–NIB–0183—Wall Switch Lockout
NSN: 5340–00–NIB–0204—Universal Single Circuit Breaker Lockout
NSN: 5340–00–NIB–0205—Universal Multi-pole Circuit Breaker Lockout
NSN: 5340–00–NIB–0208—Hasp, 1.5″ Steel with Tabs
NSN: 5340–00–NIB–0213—Cable/Valve/Hasp Lockout Device
NSN: 5340–00–NIB–0220—6 Lockout Padlocks, Nylon, Red
NSN: 5340–00–NIB–0221—3 Lockout Padlocks, Nylon, Red

Lockout/Tagout Kits

NSN: 4240–00–NIB–0161—Lockout Tags, 25-pack
NSN: 4240–00–NIB–0185—Kit, Lockout, Electrical/Valve with AC Sensor
NSN: 4240–00–NIB–0202—Lockout/Tagout Station, 3 Padlocks
NSN: 4240–00–NIB–0203—Lockout/Tagout Station, 8 Padlocks
NSN: 4240–00–NIB–0207—AC Sensor, 50V–1000V
NSN: 4240–00–NIB–0228—Medium Electrical Lockout Kit with Breaker Lockouts
NSN: 4240–00–NIB–0229—Large Electrical Lockout Kit
NSN: 4240–00–NIB–0230—Large Electrical/Valve Lockout Kit
NSN: 4240–00–NIB–0231—Small Standard Lockout Kit
NSN: 4240–00–NIB–0232—Extra Small Personal Electrical Lockout Kit
NSN: 4240–00–NIB–0233—Small Electrical Lockout Kit
NSN: 4240–00–NIB–0234—Small Electrical Lockout Kit with Plug Lockouts
NSN: 4240–00–NIB–0236—Small Electrical Valve Lockout Kit
NPA: Association for the Blind and Visually Impaired—Goodwill Industries of Greater Rochester, Rochester, New York
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA
Coverage: B-List for the Broad Government requirement as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.

Broom, Sweeping

NSN: 7920–00–NIB–0570—Extra-Rough Surface, 24″ Block with 60″ Handle
NSN: 7920–00–NIB–0571—Smooth Surface, 24″ Block with 60″ Handle
NSN: 7920–00–NIB–0572—Medium Surface, 24″ Block with 60″ Handle
NPA: Industries for the Blind, Inc., West Allis, WI
Contracting Activity: General Services Administration, Fort Worth, TX
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration, Fort Worth, TX.

NSN: 5120–00–900–6103—Hammer—3 lb, Cross-Peen, 15″ Fiberglass Handle, Cushioned Grip
NPA: Keystone Vocational Services, Inc., Sharon, PA
Contracting Activity: General Services Administration, Tools Acquisition Division I, Kansas City, MO
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration, Kansas City, MO.

NSN: MR 331—Pitter, Cherry and Olive
NSN: MR 332—Peeler, Corn
NSN: MR 335—Squeezer, Citrus, Aluminum
NSN: MR 896—Turner, Flexible, Thin, 11.5″X12″X4″
NPA: Cincinnati Association for the Blind, Cincinnati, OH
Contracting Activity: Defense Commissary Agency, Fort Lee, VA
Coverage: C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency, Fort Lee, VA.

NSN: MR 604—Drinking Straws, Flexible, Clear, 180ct
NSN: MR 10663—Pouf Balls, Bath, Toddler
NSN: MR 10674—Funnel, Collapsible
NSN: MR 10679—Baster, Bottletop
NPA: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Contracting Activity: Defense Commissary Agency, Fort Lee, VA
Coverage: C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency, Fort Lee, VA.

NSN: MR 399—Set, Cookie Cutter, Assorted, 3PC
NPA: Industries for the Blind, Inc., West Allis, WI
Contracting Activity: Defense Commissary Agency, Fort Lee, VA
Coverage: C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency, Fort Lee, VA.

Battery

NSN: 6135–01–372–5191—NEDA 1811A, Non-Rechargeable, 12.0V, Alkaline-Manganese Dioxide Zinc
NSN: 6135–01–174–8057—NEDA 1166A, Non-Rechargeable, 1.5V, Alkaline-Manganese Dioxide
NSN: 6140–01–413–3926—NEDA 1.2H2, Rechargeable, 1.2V, Nickel-Metal Hydride, PG/4
NSN: 6140–01–467–3225—NEDA 1.2H2, Rechargeable, 1.2V, Nickel-Metal Hydride, PG/2.
NSN: 6135–01–394–8087—NEDA 1168A, Non-Rechargeable, 1.5V, Alkaline-Manganese Dioxide
NSN: 6135–01–268–2151—NEDA 1414A, Non-Rechargeable, 6.0V, Alkaline-Manganese Dioxide
NSN: 6135–01–314–8415—NEDA 5000LC, Non-Rechargeable, 3.0V, Lithium
NSN: 6135–01–526–6530—NEDA 5003LC, Non-Rechargeable, 3.0V, Lithium-Manganese Dioxide
NSN: 6135–01–210–8715—NEDA 5004LC, Non-Rechargeable, 3.0V, Lithium-Manganese Dioxide
NSN: 6135–01–320–4815—NEDA 5011LC, Non-Rechargeable, 3.0V, Lithium
NSN: 6135–01–263–3611—NEDA 5012LC, Non-rechargeable, 3.0V, Lithium-Manganese Dioxide
NSN: 6135–01–522–2463—NEDA 5021LC, Non-Rechargeable, 3.0V, Lithium Manganese Dioxide
NSN: 6135–01–462–4007—NEDA 5032LC, Non-Rechargeable, 6.0V, Lithium-Manganese Dioxide
NSN: 6135–01–534–0310—NEDA 5046LC, Non-Rechargeable, 3.0V, Lithium-Manganese Dioxide
NSN: 6135–01–138–8157—NEDA 7003ZD, Non-Rechargeable, 1.4V, Zinc Air
NSN: 6135–01–586–4220—NEDA 5018LC, Non-Rechargeable, 3.0V, Lithium Photo
NPA: Eastern Carolina Vocational Center, Inc., Greenville, NC
Contracting Activity: Defense Logistics Agency Land and Maritime, Columbus, OH
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Land and Maritime, Columbus, OH.

NSN: 6850–01–560–6131—Calcium, Lime, and Rust Remover, 5 GL
NPA: The Lighthouse for the Blind, St. Louis,

MO
Contracting Activity: Defense Logistics Agency Aviation, Richmond, VA
Coverage: A-List for the Total Government Requirement as aggregated by the Defense Logistics Agency Aviation, Richmond, VA.

Services

Service Type/Location: Custodial Service, Federal Aviation Administration, Atlanta Large TRACON, 784 Highway 74 South, Peachtree City, GA
NPA: New Ventures Enterprises, Inc., LaGrange, GA
Contracting Activity: Dept. of Transportation, Federal Aviation Administration, College Park, GA

Service Type/Location: Fleet Maintenance, U.S. Department of Energy, National Nuclear Security Administration, Agent Operations Eastern Command, Office of Secure Transportation, Transportation Safeguards Training Site, Fort Chaffee, AR, 11408 Roberts Blvd., Fort Smith, AR
NPA: Skookum Educational Programs, Bremerton, WA
Contracting Activity: Department of Energy, National Nuclear Security Administion Business Services Division, Washington, DC

Deletions

The following products and service are proposed for deletion from the Procurement List:

Products

Ergo Aluminum Broom Handle & Mophead

NSN: 7920–01–503–1669
NSN: 7920–01–503–1670
NSN: 7920–01–503–1671
NSN: 7920–01–503–1672
NSN: 7920–01–503–5365
NSN: 7920–01–503–5366
NSN: 7920–01–503–5367
NPA: Industries for the Blind, Inc., West Allis, WI
Contracting Activities: Department Of Veterans Affairs, NAC, Hines, IL; General Services Administration, Fort Worth, TX

Service

Service Type/Location: Linen Distribution, Veterans Affairs Medical Center, 1900 East Main Street, Danville, IL
NPA: WorkSource Enterprises, NFP, Danville, IL
Contracting Activity: Department Of Veterans Affairs, 251-Network Contract Office 11, Indianapolis, IN

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2014–13317 Filed 6–5–14; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2011–0014]

Submission for OMB Review; Comment Request— Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (CPSC or Commission) announces that the CPSC has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information relating to the generic clearance for the collection of qualitative feedback on agency service delivery (OMB No. 3041–0148). In the **Federal Register** of March 13, 2014 (79 FR 14237), the CPSC published a notice announcing the agency's intent to seek an extension of approval of this collection of information. CPSC received no comments in response to that notice. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information without change.

DATES: Written comments on this request for extension of approval of information collection requirements should be submitted by July 7, 2014.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *http://www.regulations.gov,* under Docket No. CPSC–2011–0014.

FOR FURTHER INFORMATION CONTACT: For further information contact: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following collection of information:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, to improve service delivery. Below we provide CPSC's projected average estimates for activities including qualitative surveys, focus groups, customer satisfaction surveys, and usability tests.

Current Actions: Renewal of collection of information.

Type of Review: Renewal.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of Activities: Eight activities, including qualitative surveys, focus groups, customer satisfaction surveys, and usability tests.

Annual Number of Respondents: 1,600.

Annual Responses: 1,600.

Frequency of Response: Once per request.

Average Minutes per Response: 45 minutes per response.

Annual Burden Hours: 1,200.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Todd A. Stevenson,

Secretary,

Consumer Product Safety Commission.

[FR Doc. 2014–13170 Filed 6–5–14; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0086]

Proposed Collection; Comment Request

AGENCY: Office of the Inspector General, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Inspector General announces a proposed public information collection and seeks public comment on the provisions thereof. 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 information collection; (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.

DATES: Consideration will be given to all comments received by August 5, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of Communications and Congressional Liaison, Office of Inspector General, Department of Defense, 4800 Mark Center Drive, Suite 15F26, Alexandria, VA 22350–1500, ATTN: Bridget Serchak or call 703–604–2028.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: DoDIG Generic Survey Collection: OMB Control Number 0704–TBD.

Needs and Uses: The information collection requirement is necessary to obtain customer satisfaction metrics from users of the organization's Web site, *www.dodig.mil* and those engaged by public affairs and social media initiatives. This collection is necessary for DoD IG's compliance with OMB Digital Strategy Milestone 8.2 and will enable the organization to make data-driven decisions on service performance and increase customer satisfaction.

Affected Public: Individuals and Households.

Annual Burden Hours: 1000.

Number of Respondents: 6000.

Responses per Respondent: 1.

Total Annual Responses: 6000.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

Respondents will be users of the Web site *www.dodig.mil*+ and/or audiences of public affairs and social media outreach. Data collections will be in the form of brief online surveys querying on customer satisfaction regarding outreach efforts. The surveys will examine the overall customer experience, perceived ability to obtain the desired or needed information or service, likelihood of continued use, likelihood of recommending use to others, and other open-ended qualitative feedback. The surveys will be voluntary and users must actively choose to participate. No personally identifiable information (PII) or confidential information will be collected. DoDIG will conduct two surveys per year, for a total of six surveys over the three-year period of the generic clearance. The topics of surveys that will be conducted include:

• Web site Feedback—Online surveys assessing user experience for *www.dodig.mil/.* Questions will focus on data required to collect by the White House Digital Strategy Requirements.

• Social Media Outreach—Querying users on social media preferences in order to improve outreach using these platforms.

• Report Dissemination—Studying the means by which users find and would prefer to find DoDIG reports.

• Customer Perception of Organizational Identity—Examining how the customer perceives DoD IG and their awareness of its activities and contributions.

The conclusions drawn from these data collections will be essential for gauging effectiveness of communication efforts and improving customer satisfaction.

Dated: June 3, 2014.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2014–13162 Filed 6–5–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–HA–0088]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and 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.

DATES: Consideration will be given to all comments received by August 5, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the TRICARE Dental Care Office, Health Plan Execution and Operation, Defense Health Agency (DHA), Rm 3M451, ATTN: COL Colleen C. Shull, Falls Church, VA 22042 or call (703) 681–9517, DSN 761.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: TRICARE Dental Program (TDP) Dentist's Claim Form CONUS and TRICARE Dental Program (TDP)

Dentist's Claim Form OCONUS; OMB Control Number 0720–0035.

Needs and Uses: The TRICARE Dental Program (TDP) Claim Form(s). CONUS/OCONUS are required to gather information to make payment for legitimate dental claims and to assist in contractor surveillance and program integrity investigations and to audit financial transactions where the Department of Defense has a financial stake. The information from the claim form is also used to provide important cost-share explanations to the beneficiary.

Affected Public: Business or other for profit.

Annual Burden Hours: 1,006,415.

Number of Respondents: 64,930.

Responses per Respondent: 62.

Annual Responses: 4,025,660.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

The Defense Health Agency (DHA) under the authority of the Office of the Assistant Secretary of Defense (Health Affairs)/Office of the Deputy Assistant Secretary of Defense has responsibility for management of the TRICARE Dental Program (TDP) as established in Title 10, United States Code, Section 1076a. The information collected to make payment for covered dental procedures provided by a licensed dentist to an eligible beneficiary can be sent to the TDP contractor electronically, fax or mail. Approximately 35% of all TDP network dental claims are filed electronically. Dental offices and patients can download the TDP claim form from the contractor's Web site.

For non-network dentist, to include those in overseas locations, the use of the TDP Claim Form is highly encouraged. However, dental claims will be paid if all the required information is provided on a similar claim form.

Dated: June 3, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–13171 Filed 6–5–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces; Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Assistant Secretary of Defense, DoD.

ACTION: Meeting notice.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces (subsequently referred to as the Task Force). This meeting is open to the public.

DATES: Tuesday, July 8, 2014 from 8:00 a.m. to 3:30 p.m. e.s.t.—Wednesday, July 9, 2014 from 8:00 a.m. to 3:45 p.m. e.s.t.

ADDRESSES: DoubleTree by Hilton Hotel Washington DC-Crystal City, 300 Army Navy Drive, Arlington, VA 22202 (Commonwealth Room).

FOR FURTHER INFORMATION CONTACT: Mail Delivery service through Recovering Warrior Task Force, Hoffman Building II, 200 Stovall St., Alexandria, VA 22332–0021 ''Mark as Time Sensitive for July Meeting''. Email correspondence to *rwtf@mail.mil.* Ms. Denise F. Dailey, Designated Federal Officer; Telephone (703) 325–6640. Fax (703) 325–6710.

SUPPLEMENTARY INFORMATION:

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

Purpose of the Meeting: The purpose of the meeting is for the Task Force Members to convene and vote on recommendations for their FY 2014 annual report.

Agenda: (Refer to *http://rwtf.defense.gov* for the most up-to-date meeting information)

Day One: Tuesday, July 8, 2014

8:00 a.m.–8:15 a.m. Administrative
8:15 a.m.–9:00 a.m. Task Force Consolidated Voting Session New Approach to IDES
9:00 a.m.–9:15 a.m. Break
9:15 a.m.–10:00 a.m. Task Force Consolidated Voting Session Improve Current IDES process
10:00 a.m.–10:15 a.m. Break
10:15 a.m.–11:00 a.m. Task Force Consolidated Voting Session DoDI for Addressing RW Family Member and Caregiver Needs
11:00 a.m.–11:30 a.m. Task Force Consolidated Voting Session Uniformed Representatives at the Office of Warrior Care Policy
11:30 a.m.–12:30 p.m. Break for lunch
12:30 p.m.–1:15 p.m. Task Force Consolidated Voting Session Securing Enduring Resources for RW programs
1:15 p.m.–1:30 p.m. Break
1:30 p.m.–2:15 p.m. Task Force Consolidated Voting Session Interagency Policy/Cross Agency Policy
2:15 p.m.–2:30 p.m. Break
2:30 p.m.–3:00 p.m. Task Force Consolidated Voting Session Center of Excellence Alignment
3:00 p.m.–3:30 p.m. Wrap Up

Day Two: Wednesday, July 9, 2014

8:00 a.m.–8:15 a.m. Administrative
8:15 a.m.–8:30 a.m. Public Forum
8:30 a.m.–9:15 a.m. Task Force Consolidated Voting Session Optimize Family Contribution to RW's Recovery
9:15 a.m.–9:30 a.m. Break
9:30 a.m.–10:15 a.m. Task Force Consolidated Voting Session Facilitate Transfer of Service members to the VA
10:15 a.m.–10:30 a.m. Break
10:30 a.m.–11:15 a.m. Task Force Consolidated Voting Session Vocational and Employment Programs
11:15 a.m.–12:00 p.m. Task Force Consolidated Voting Session Health Insurance for Reserve Component
12:00 p.m.–1:00 p.m. Break for lunch
1:00 p.m.–1:45 p.m. Task Force Consolidated Voting Session Expand Access to Care for Service members and Veterans
1:45 p.m.–2:00 p.m. Break
2:00 p.m.–2:30 p.m. Task Force Consolidated Voting Session Recruitment Standards
2:30 p.m.–2:45 p.m. Break
2:45 p.m.–3:45 p.m. Review of Annual Report Introduction and Best Practices/W Wrap Up/Closing Activities

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces about its mission and functions. If individuals are interested in making an oral statement during the Public Forum, a written statement for a presentation of two minutes must be submitted as stated in this notice and it

must be identified as being submitted for an oral presentation by the person making the submission. Identification information must be provided and, at a minimum, must include a name and a phone number. Individuals may visit the Task Force Web site at *http://rwtf.defense.gov* to view the Charter. Individuals making presentations will be notified by Tuesday, July 1, 2014. Oral presentations will be permitted only on Wednesday, July 9, 2014 from 8:15 a.m. to 8:30 a.m. e.s.t. before the Task Force. The number of oral presentations will not exceed ten, with one minute of questions available to the Task Force members per presenter. Presenters should not exceed their two minutes.

Written statements in which the author does not wish to present orally may be submitted at any time or in response to the stated agenda of a planned meeting of the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces.

All written statements shall be submitted to the Designated Federal Officer for the Task Force through the contact information in the **FOR FURTHER INFORMATION CONTACT** section, and this individual will ensure that the written statements are provided to the membership for their consideration.

Statements, either oral or written, being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 5:00 p.m. e.s.t., Friday, June 27, 2014 with the subject of this notice. Statements received after this date may not be provided to or considered by the Task Force until its next meeting. Please mark mail correspondence as ''Time Sensitive for July Meeting.''

The Designated Federal Officer will review all timely submissions with the Task Force Co-Chairs and ensure they are provided to all members of the Task Force before the meeting that is the subject of this notice.

Reasonable accommodations will be made for those individuals with disabilities who request them. Requests for additional services should be directed to Ms. Heather Moore, (703) 325–6640, by 5:00 p.m. e.s.t., Thursday, July 3, 2014.

Dated: June 3, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–13177 Filed 6–5–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Language Resource Centers Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information:

Language Resource Centers Program.

Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.229A.

DATES: Applications Available: June 6, 2014.

Deadline for Transmittal of Applications: July 9, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Language Resource Centers (LRC) Program provides grants to institutions of higher education or consortia of these institutions for establishing, strengthening, and operating centers that serve as resources for improving the Nation's capacity for teaching and learning foreign languages through teacher training, research, materials development, and dissemination projects.

Priorities: This notice contains two competitive preference priorities and two invitational priorities. Competitive Preference Priority 1 is from the regulations for this program at 34 CFR 669.22(a)(2). Competitive Preference Priority 2 is from the notice of final priorities for discretionary grant programs published elsewhere in this issue of the **Federal Register**.

Competitive Preference Priorities: For FY 2014, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award an additional 5 points to an application that meets Competitive Preference Priority 1; and we award up to 5 points to an application that meets Competitive Preference Priority 2, depending on how well the application meets this priority. The maximum amount of competitive preference priority points that an application can receive for this competition is 10 points.

These priorities are:

Competitive Preference Priority 1: Priority Languages selected from the U.S. Department of Education's List of Less Commonly Taught Languages (LCTLs). (5 points)

Applications that propose activities that focus on any of the seventy-eight (78) priority languages selected from the U.S. Department of Education's list of Less Commonly Taught Languages (LCTLs): Akan (Twi-Fante), Albanian, Amharic, Arabic (all dialects), Armenian, Azeri (Azerbaijani), Balochi, Bamanakan (Bamana, Bambara, Mandikan, Mandingo, Maninka, Dyula), Belarusian, Bengali (Bangla), Berber (all languages), Bosnian, Bulgarian, Burmese, Cebuano (Visayan), Chechen, Chinese (Cantonese), Chinese (Gan), Chinese (Mandarin), Chinese (Min), Chinese (Wu), Croatian, Dari, Dinka, Georgian, Gujarati, Hausa, Hebrew (Modern), Hindi, Igbo, Indonesian, Japanese, Javanese, Kannada, Kashmiri, Kazakh, Khmer (Cambodian), Kirghiz, Korean, Kurdish (Kurmanji), Kurdish (Sorani), Lao, Malay (Bahasa Melayu or Malaysian), Malayalam, Marathi, Mongolian, Nepali, Oromo, Panjabi, Pashto, Persian (Farsi), Polish, Portuguese (all varieties), Quechua, Romanian, Russian, Serbian, Sinhala (Sinhalese), Somali, Swahili, Tagalog, Tajik, Tamil, Telugu, Thai, Tibetan, Tigrigna, Turkish, Turkmen, Ukrainian, Urdu, Uyghur/Uigur, Uzbek, Vietnamese, Wolof, Xhosa, Yoruba, and Zulu.

Competitive Preference Priority 2: Applications That Propose Significant and Sustained Collaborative Activities With One or More Minority-Serving Institutions (MSIs) or Community Colleges. (up to 5 points)

Applications that propose significant and sustained collaborative activities with one or more Minority-Serving Institutions (MSIs) (as defined in this notice) or with one or more community colleges (as defined in this notice).

These activities must be designed to incorporate foreign languages into the curriculum at the MSI(s) or community college(s), and to improve foreign language instruction at the MSI(s) or community college(s). If an applicant institution is an MSI or a community college (as defined in this notice), that institution can meet the intent of this priority by proposing intra—campus collaborative activities instead of, or in addition to, collaborative activities with other MSIs and/or community colleges.

For the purpose of this priority:

Community college means an institution that meets the definition in section 312(f) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1058(f)); or an institution of higher education (as defined in section 101 of the HEA (20 U.S.C. 1001)) that

awards degrees and certificates, more than 50 percent of which are not bachelor's degrees (or an equivalent) or master's, professional, or other advanced degrees.

Minority-Serving Institution means an institution that is eligible to receive assistance under sections 316 through 320 of part A of Title III, under part B of Title III, or under Title V of the HEA.

You may view lists of Title III and Title V eligible institutions at the following links:

http://www2.ed.gov/about/offices/list/ope/idues/t3t5-eligibles-2014.pdf.

http://www2.ed.gov/programs/iduesaitcc/tribal-newgrantees2013.pdf.

http://www2.ed.gov/programs/iduesaitcc/tribal-f-nccgrantees2013.pdf.

Note: The eligibility status is still current for institutions listed at the links above. You may also view the list of Historically Black Colleges and Universities at 34 CFR 608.2.

You may also view the list of Historically Black Colleges and Universities at: *http://www.ed.gov/edblogs/whhbcu/one-hundred-and-five-historically-black-colleges-and-universities/.*

Invitational Priorities: For FY 2014, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1), we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1: New Applicants. Applications from applicants who have not received an LRC grant, either as an individual institution or as a member of a consortium, during the last two funding cycles (FY 2006–2009, FY 2010–2013).

Invitational Priority 2: Heritage Language Programs and Projects. Applications that propose programs or projects that engage in collaborative activities with heritage language centers or schools to support the language maintenance and development of heritage language speakers. For the purpose of the LRC program, a heritage language speaker is a person who grew up using the language at home or received K–12 education in the language.

Program Authority: 20 U.S.C. 1123.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The regulations in 34 CFR part 655. (d) The regulations for the LRC program in 34 CFR part 669.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

Area of National Need: In accordance with section 601(c) of the HEA, 20 U.S.C. 1121(c), the Secretary has consulted with and received recommendations regarding national need for expertise in foreign language and world regions from the head officials of a wide range of Federal agencies. The Secretary has taken these recommendations into account and a list of foreign languages and world regions identified by the Secretary as areas of national need may be found on the following Web site: *http://www2.ed.gov/about/offices/list/ope/iegps/consultation-2014.pdf.*

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $2,746,768.

Estimated Range of Awards: $180,000–$200,000.

Estimated Number of Awards: 15.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* An institution of higher education or consortia of institutions of higher education.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs).

To obtain a copy via the Internet, use the following address: *http://grants.gov.*

To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this program as follows: CFDA number 84.229A.

Individuals with disabilities may obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limits: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative (Part III) to no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, *except* titles, headings, footnotes, quotations, references, and captions. Charts, tables, figures, and graphs in the application narrative may be single spaced and will count toward the page limit.
- Use a font that is either 12 point or larger; or, no smaller than 10 pitch (characters per inch). However, you may use a 10 point font in charts, tables, figures, and graphs.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.
- The 50-page limit does not apply to Part I, the Application for Federal Assistance face sheet (SF 424); the supplemental information form required by the Department of Education; Part II, Budget Information—Non-Construction Programs (ED 524); Part IV, assurances, certifications, and the response to section 427 of the General Education Provisions Act (GEPA); the table of contents; the one-page project abstract; the appendices; or the line item budget. However, the page limit does apply to all of the application narrative section (Part III). If you include any attachments or appendices not specifically requested, these items will be counted as part of the program narrative (Part III) for purposes of the page limit requirement.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:* Applications Available: June 6, 2014.

Deadline for Transmittal of Applications: July 9, 2014.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application

electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* See 34 CFR 664.33. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet by going to the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *http://www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Language Resource Centers (LRC) Program, CFDA number 84.229A, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Language Resource Center at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.229, not 84.229A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on

the Department's G5 system home page at *www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days; or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement for Language Resource Center Program (CFDA 84.229A) to: Tanyelle Richardson, Language Resource Center Program, U.S. Department of Education, 1990 K Street NW., Room 6099, Washington, DC 20006–8521. FAX: (202) 502–7860.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.229A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.229A), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between

8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope—and, if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR sections 655.31, 669.21, and 669.22 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For the LRC Program, final and annual reports must be submitted into the International Resource Information System (IRIS) online data and reporting system. You can view the performance report screens and instructions at *http://iris.ed.gov/iris/pdfs/LRC.pdf*.

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the LRC Program: Percentage of LRC products or activities judged to be successful by LRC customers with respect to quality, usefulness and relevance; percentage of LRC products judged to be successful by an independent expert review panel with respect to quality, usefulness and relevance; and cost per LRC project that increased the number of training programs for K–16 instructors of LCTLs (efficiency measure). The information provided by grantees in their performance reports submitted via the IRIS reporting system will be the source of data for these measures.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Tanyelle H. Richardson, International and Foreign Language Education, U.S. Department of Education, 1990 K Street NW., Washington, DC 20006–8521, Telephone: (202) 502–7626 or by email: *LRC@ed.gov*.

If you use a TDD or a TTY, call the Federal Relay Service, toll-free, at 1–800–877–8339.

The agency contact person does not mail application materials and does not accept applications.

VIII. Other Information

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

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

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

Dated: June 3, 2014.

Lynn B. Mahaffie,

Senior Director, Policy Coordination, Development, and Accreditation Service, delegated the authority to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

[FR Doc. 2014–13207 Filed 6–5–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity (NACIQI)

AGENCY: National Advisory Committee on Foreign Medical Education and Accreditation (NCFMEA), Office of Postsecondary Education, Department of Education.

ACTION: Update-Notice Seeking Nominations for the NCMFEA.

ADDRESSES: U.S. Department of Education, Office of Postsecondary Education, 1990 K Street NW., Room 8072, Washington, DC 20006.

SUMMARY: This notice is an update to the previous notice published in the **Federal Register** (79 FR 28919) on May 20, 2014.

Please note that the email address for the U.S. Department of Education, White House Liaison is *whitehouseliaison@ed.gov.* In addition, please be advised that the deadline for submission of nominations either electronically or via mail has been extended to no later than 12 noon Eastern Standard Time, June 23, 2014. As noted in the May 20, 2014 notice, instructions for submitting nominations are as follows:

Any interested person or organization may nominate one or more qualified individuals for membership. If you would like to nominate an individual or yourself for appointment to the NCFMEA (including incumbents who wish to seek reappointment), please submit the following information to the U.S. Department of Education's White House Liaison Office.

- A cover letter addressed to the Secretary of Education that provides your reason(s) for nominating the individual; and
- A copy of the nominee's current resume or curriculum vitae.
- Contact information for the nominee (name, title, business address, business phone, fax number, and business email address).

In addition, the cover letter must include a statement affirming that the nominee (if you are nominating someone other than yourself) has agreed to be nominated and is willing to serve on the Committee if selected. Nominees should be broadly knowledgeable about foreign medical education and accreditation, respected in the educational community, and representative of the relevant constituencies.

You may submit nominations, including attachments by any of the following methods:

- *Electronically:* Send to *whitehouseliaison@ed.gov* specify in the email subject line ''NCFMEA Nomination'').
- *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy of the documents listed above to the following address: The Honorable Arne Duncan, Secretary of Education, ATTN: White House Liaison Office, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202.

Please submit nomination information via only one (1) of the methods mentioned above.

FOR FURTHER INFORMATION CONTACT: Carol Griffiths, Executive Director, NCFMEA, U.S. Department of Education, 1990 K Street NW., Room 8073, Washington, DC 20006–8129, telephone: (202) 219–7035, fax: (202) 219–7005, or email: *Carol.Griffiths@ed.gov.*

For questions about the nominations process contact the U.S. Department of Education, White House Liaison Office at (202) 401–3677.

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

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

Lynn B. Mahaffie,

Senior Director, Policy Coordination, Development, and Accreditation Service delegated the authority to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

[FR Doc. 2014–13173 Filed 6–5–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. EERE–2013–BT–NOC–0005]

Solicitation of Nominations for Membership on the Appliance Standards and Rulemaking Federal Advisory Committee

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Solicitation of nominations for membership.

SUMMARY: To ensure a wide range of candidates and a balanced committee, the U.S. Department of Energy (DOE) announces the solicitation of nominations to fill upcoming vacancies on the Appliance Standards and Rulemaking Federal Advisory Committee (Committee).

DATES: All nomination information should be provided in a single, complete package submitted electronically or postmarked by July 7, 2014.

ADDRESSES: Nominations packages should be submitted either electronically or by mail, but not by both methods. Complete nomination packages identified by docket number EERE–2013–BT–NOC–0005 may be submitted by any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
2. *Email: ASRAC@ee.doe.gov.* Include docket number EERE–2013–BT–NOC–0005 in the subject line of the message.
3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case

it is not necessary to include printed copies. No telefacsimilies (faxes) will be accepted.

It is recommended that nominations be submitted in electronic format via email to *asrac@ee.doe.gov.* Submissions submitted by mail are welcome, but may be delayed in delivery due to the DOE mail vetting procedures in place. For submission by mail, please send to Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

SUPPLEMENTARY INFORMATION: The Committee will provide advice and recommendations to the Secretary of Energy on the DOE's Appliance and Equipment Standards Program's test procedures and rulemaking determinations. The Committee's scope is to review and make recommendations on the: (1) Development of minimum efficiency standards for residential appliances and commercial equipment, (2) development of product test procedures, (3) certification and enforcement of standards, (4) labeling for various residential products and commercial equipment, and (5) specific issues of concern to DOE as requested by the Secretary of Energy, the Assistant Secretary for Energy Efficiency and Renewable Energy, and the Buildings Technologies Office's Director.

To facilitate the functioning of the Committee, working groups (i.e., subcommittees) may be formed with the approval of the Department of Energy. The objectives of the working groups are to make recommendations to the parent committee with respect to particular matters related to the responsibilities of the parent committee. Such working groups may not work independently of the chartered committee and must report their recommendations and advice to the full committee for full deliberation and discussion. Subcommittee members are appointed with DOE approval.

DOE is hereby soliciting nominations for members of the Appliance Standards and Rulemaking Federal Advisory Committee. The Committee is expected to be continuing in nature. Members will be selected with a view toward achieving a balanced committee of experts in fields relevant to energy efficiency, appliance and commercial equipment standards to include DOE, as well as representatives of industry (including manufacturers and trade associations representing manufacturers, component manufacturers and related suppliers, and retailers), utilities, energy efficiency/environmental advocacy groups and consumers. Committee members will serve for a term of three years or less and may be reappointed for successive terms, with no more than two successive terms. Appointments may be made in a manner that allows the terms of the members serving at any time to expire at spaced intervals, so as to ensure continuity in the functioning of the Committee. Some Committee members may be appointed as special Government employees, experts in fields relevant to energy efficiency and appliance and commercial equipment standards; or as representatives of industry (including manufacturers and trade associations representing manufacturers, component manufacturers and related suppliers, and retailers), utilities, energy efficiency/environmental advocacy groups and consumers. Special Government employees will be subject to certain ethical restrictions and such members will be required to submit certain information in connection with the appointment process.

Members of the Committee will serve without compensation; however, each member may be reimbursed in accordance with Federal Travel Regulations for authorized travel and per diem expenses incurred while attending Committee meetings.

Process and Deadline for Submitting Nominations: Qualified individuals can self-nominate or be nominated by any individual or organization. Nominators should submit:

1. The nominee's current resume or curriculum vitae and contact information, including mailing address, email address, and telephone number;

2. A letter of interest, including a summary of how the nominee's experience and expertise would support the Committee's objectives; and

3. An affirmative statement that: (a) The nominee is not currently a federally- registered lobbyist and will not be a federally-registered lobbyist at the time of appointment and during his/her tenure as a Committee member, or (b) if the nominee is currently a federally- registered lobbyist, that the nominee will no longer be a federally-registered lobbyist at the time of appointment to the Committee and during his/her tenure as a member.

All nomination information should be provided in a single, complete package by the deadline specified in this notice. Nominations packages should be submitted by either mail or electronically, but not by both methods.

Should more information be needed, DOE staff will contact the nominee, obtain information from the nominee's past affiliations or obtain information from publicly available sources, such as the internet. A selection team will review the nomination packages. This team will be comprised of representatives from several DOE Offices. The selection team will seek balanced viewpoints and consider many criteria, including: (a) Scientific or technical expertise, knowledge, and experience; (b) stakeholder representation; (c) availability and willingness to serve; and (d) skills working in committees, working groups and advisory panels. The selection team will make recommendations regarding membership to the Secretary of Energy for review and selection of Committee members.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure that recommendations to the Committee take into account the needs of the diverse groups served by DOE, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the needs of women and men of all racial and ethnic groups, and persons with disabilities. Please note, however, that Federally-registered lobbyists and individuals already serving on another Federal advisory committee are ineligible for nomination.

FOR FURTHER INFORMATION CONTACT: John Cymbalsky by telephone at 202–287–1692 or by email at *asrac@ee.doe.gov.*

Issued in Washington, DC, on May 30, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–13050 Filed 6–5–14; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9911–21–OEI]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget (OMB) responses to Agency clearance requests in compliance with the

Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Courtney Kerwin at (202) 566–1669 or email at *Kerwin.Courtney@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION: The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 2456.02; Willingness to Pay for Improved Water Quality in the Chesapeake Bay (Revised); was approved on 04/11/2014; OMB Number 2010–0043; expires on 09/30/2015; Approved with change.

EPA ICR Number 2405.01; Underground Storage Tank: Information Request Letters, Pacific Southwest Region (Region IX) (New); 40 CFR part 280; was approved on 04/11/2014; OMB Number 2050–0210; expires on 08/31/2014; Approved.

EPA ICR Number 1230.29; Prevention of Significant Deterioration and Non-Attainment New Source Review (Renewal); 40 CFR 51.160–51.164; 40 CFR 51.166; 40 CFR part 52.21; 40 CFR 51.165; 40 CFR part 51 Appendix S; 40 CFR 52.24; and 40 CFR 49.166–49.173 and 49.151–49.161; was approved on 04/02/2014; OMB Number 2060–0003; expires on 04/30/2017; Approved with change.

Dated: May 16, 2014.

Erin Collard,

Acting Director, Collections Strategies Division.

[FR Doc. 2014–12462 Filed 6–5–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9911–77–OAR]

Protection of Stratospheric Ozone: Request for Applications for Essential Use Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In this notice, the Environmental Protection Agency (EPA) is providing information about the process for submitting applications for essential use exemptions. Essential use exemptions are exceptions to the phaseout of production and import of controlled class I ozone-depleting substances (ODS). Essential use exemptions must be authorized by the Parties to *the Montreal Protocol on Substances That Deplete the Ozone Layer* and must be in accordance with the Clean Air Act. Applications received in accordance with this notice will be considered as the basis for submitting potential nominations for essential use exemptions to future Meetings of the Parties to the Montreal Protocol.

DATES: Applications for essential use exemptions must be submitted to EPA no later than September 30 of each year, in order for the U.S. Government to complete its consideration for nomination to the United Nations Environment Programme and the Parties to the Montreal Protocol in a timely manner.

ADDRESSES: Send application materials to: Essential Use Exemption Coordinator, Stratospheric Protection Division (6205J), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

Confidentiality: Application materials that are confidential should be submitted under separate cover and be clearly identified as ''confidential business information.'' Information covered by a claim of business confidentiality will be treated in accordance with the procedures for handling information claimed as confidential under 40 CFR part 2, subpart B, and will be disclosed only to the extent and by means of the procedures set forth in that subpart. If no claim of confidentiality accompanies the information when it is received by EPA, the information may be made available to the public by EPA without further notice to the company (40 CFR 2.203).

FOR FURTHER INFORMATION CONTACT: Jeremy Arling at the addresses above, by telephone at (202) 343–9055, or by email at *arling.jeremy@epa.gov.* Information about essential uses may be obtained from EPA's stratospheric protection Web site at *www.epa.gov/ozone/title6/exemptions/essential.html.*

SUPPLEMENTARY INFORMATION:

I. Background on the Essential Use Exemption

The Parties to the *Montreal Protocol on Substances that Deplete the Ozone Layer* (Montreal Protocol) agreed during the Fourth Meeting in Copenhagen in 1992 that non-Article 5 Parties (developed countries) would phase out the production and consumption of halons by January 1, 1994, and phase out the production and consumption of other substances referred to under the Clean Air Act as class I substances, except methyl bromide, by January 1, 1996. The control measures for many of these substances, however, allow exemptions from the phaseout ''to the extent the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.'' *See, e.g.* art. 2A para 4. The Parties also decided on the criteria to be used for allowing ''essential use'' exemptions from the phaseout of production and import of controlled substances. Decision IV/25 of the Fourth Meeting of the Parties details the specific criteria and review process for granting essential use exemptions.

Paragraph 1(a) of Decision IV/25 states that ''use of a controlled substance should qualify as 'essential' only if: (i) It is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and (ii) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health.'' In addition, Paragraph 1(b) of Decision IV/25 states that ''production and consumption, if any, of a controlled substance, for essential uses should be permitted only if: (i) All economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and (ii) the controlled substance is not available in sufficient quantity and quality from the existing stocks of banked or recycled controlled substances . . .''

The Clean Air Act in section 604 contemplates exemptions from the phaseout of Class I controlled substances in the United States, including exemptions for essential uses.[1] The Clean Air Act sets sunset dates for three of these uses that are now in the past: (1) Methyl chloroform use generally (ending January 1, 2005); (2) halons for fire suppression and explosion prevention generally (ending December 31, 1999); and (3) halons for fire suppression and explosion prevention for oil production on the North Slope of Alaska (ending December 31, 2004). Two other uses do not have statutory sunset dates: (1) Class I substances for medical devices (section 604(d)(2)), and (2) halons for aviation safety (section 604(d)(3)). Each of these

[1] This notice does not address all exemptions in section 604 such as the exemptions for critical uses, sanitation and food protection, or national security.

provisions has its own criteria and process that must be followed; no exceptions are automatic.

Prior essential use applications were typically for chlorofluorocarbons (CFCs) for metered dose inhalers (MDIs). The Parties last authorized an essential use exemption for the United States allowing the production of CFCs for MDIs in 2008 for the 2010 calendar year. Effective December 31, 2013, all CFC-containing MDIs have been removed from the Food and Drug Administration's (FDA's) list of essential uses found at 21 CFR 2.125(e). The United States has not nominated halons for aviation safety as an essential use. If EPA were to receive an application for halons for aviation safety, EPA would work with other relevant Federal agencies to establish the process for reviewing applications for this use.

II. Essential Use Nomination Process

Entities requesting essential use exemptions should send a completed application to EPA on the candidate use by September 30, three years prior to the year of the intended use. Upon receipt of applications, EPA will review the information and work with other interested Federal agencies as required in section 604 of the Clean Air Act to determine whether the candidate use satisfies Clean Air Act requirements, as well as whether it meets the essential use criteria adopted by the Parties to the Montreal Protocol and warrants nomination by the United States for an exemption.

All Parties, including the United States, must transmit nominations to the UNEP Ozone Secretariat by January 31 to be considered by the Parties at their annual meeting at the end of that year. The UNEP Ozone Secretariat forwards nominations to the Montreal Protocol's Technical and Economic Assessment Panel (TEAP) and its relevant Technical Options Committee (TOC). The TOC and the TEAP review the nomination to determine whether it meets the criteria for an essential use established by Decisions IV/25, XII/2, XV/5, and XVI/12, and to make recommendations to the Parties for essential use exemptions. The Parties then consider those recommendations at their annual meeting before making a final decision.

An essential use exemption is granted to the nominating Party for a specific quantity of a specified ODS for a specific time period. If the Parties determine that a specified use of a controlled substance is essential and authorize an exemption from the Protocol's production and consumption phaseout, EPA may then take domestic action to allow the production and consumption to the extent consistent with the Clean Air Act.

III. Information Required for Essential Use Applications

In the past, EPA had annually issued a notice requesting applications for essential use exemptions. Through this action, EPA provides the opportunity to submit applications for essential use exemptions for class I substances for all future control periods (calendar years). Applications requesting essential use allowances should include information that U.S. Government agencies and the Parties to the Protocol can use to evaluate the candidate use according to the criteria in the Decisions described above. Applications that fail to include sufficient information may not be nominated.

Specifically, all applications submitted to EPA should include the information requested in the current version of the TEAP *Handbook on Essential Use Nominations,* which as of the date of this notice was last updated in 2009. The handbook is available electronically on the internet at *http://ozone.unep.org/teap/Reports/TEAP_Reports/EUN-Handbook2009.pdf.* EPA requests that applications contain the following information, as described in the handbook, in order for the U.S. to provide sufficient information to the Montreal Protocol's technical review bodies within the nomination:

1. A detailed description of the use that is the subject of the nomination;
2. Details of the type, quantity, and quality of the controlled substance that is requested to satisfy the use;
3. The period of time and the annual quantities of the controlled substances that are requested;
4. An explanation of why the nominated volumes and the intended use of these quantities are necessary for health and/or safety, or critical for the functioning of society;
5. An explanation of what other alternatives and substitutes are currently available and what steps are being taken to implement those alternatives and substitutes;
6. An explanation of why alternatives and substitutes are not sufficient or appropriate to eliminate the proposed use;
7. A description of the measures that are proposed to eliminate all unnecessary emissions, including design considerations and maintenance procedures;
8. An explanation of what efforts are being undertaken to employ other measures for this application in the future;
9. A description of the efforts that have been made to acquire stockpiled or recycled controlled substance for this application both domestically and internationally as well as an explanation of what efforts have been made to establish banks for the controlled substance; and
10. A description of any other barriers encountered in attempts to eliminate the use of the controlled substance for this application.

In addition, applicants should specify which exemption in CAA section 604 they are seeking: the exemption for medical devices at section 604(d)(2) or the exemption for aviation safety at section 604(d)(3). Each of these statutory exemptions has its own process and criteria that would need to be satisfied prior to any regulatory action authorizing the exemption.

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this notice under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0170.

Dated: May 30, 2014.

Paul Gunning,

Acting Director, Office of Atmospheric Programs.

[FR Doc. 2014–13235 Filed 6–5–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9015–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 05/27/2014 Through 05/30/2014

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20140162, Final EIS, FAA, TX, SpaceX Texas Launch Site, Review Period Ends: 07/07/2014, Contact: Stacey Zee 202–267–9305.

EIS No. 20140163, Draft EIS (Tiering), NASA, FL, Tier 2—Mars 2020 Mission, Comment Period Ends: 07/

21/2014, Contact: George Tahu 202–258–0016.

EIS No. 20140164, Final Supplement, FHWA, NCDOT, NC, Monroe Connector/Bypass, Contact: George Hoops 919–707–6022, Under MAP–21 section 1319, FHWA has issued a single FSEIS and ROD. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20140165, Draft EIS, USACE, WA, Skagit River Flood Risk Management General Investigation, Comment Period Ends: 07/21/2014, Contact: Hannah Hadley 206–764–6950.

EIS No. 20140166, Draft EIS, USACE, WA, BP Cherry Point Dock, Comment Period Ends: 08/06/2014, Contact: Olivia Romano 206–764–6960.

Amended Notices

EIS No. 20130365, Draft EIS, NMFS, USFWS, BR, CA, Bay Delta Conservation Plan, Comment Period Ends: 07/29/2014, Contact: Ryan Wulff 916–930–3733.

Revision to the FR Notice Published 02/21/2014; Extending Comment Period from 06/13/2014 to 07/29/2014; The U.S. Department of the Interior's Bureau of Reclamation and Fish and Wildlife Service, the U.S. Department of Commerce's National Marine Fisheries Service are joint lead agencies for the above project.

Dated: May 3, 2014.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2014–13231 Filed 6–5–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2004–0202; FRL–9911–37]

Pentachloronitrobenzene (PCNB); Notice of Receipt of Requests To Voluntarily Amend Registrations To Terminate Certain Uses

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 the registrant to voluntarily amend PCNB registrations for one manufacturing-use product and two end-use products to terminate or delete a number of uses. The requests would delete the use of Technical Grade PCNB (EPA Registration #5481–197) for formulation into products for use as seed treatments (except for the treatment of cloves of garlic) and products for use on certain non-residential terrestrial non-food crops. The requests also would terminate the use of the PCNB product with EPA Registration #5481–8988 on bedding plants, flowering plants, foliage plants, and bulb crops, and the use of the PCNB product with EPA Registration #5481–8992 on bedding plants, flowering plants, foliage plants, azaleas, camellias, gladiolus (broadcast), and cut flowers. These use deletion requests are detailed in Table 1 in Unit III. The requests would not terminate the last PCNB products registered for use in the United States. EPA intends to grant these requests 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 requests, or unless the registrant withdraws its request(s). If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the uses are deleted only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before July 7, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2004–0202, 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.
- *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.*

FOR FURTHER INFORMATION CONTACT: Jill Bloom, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8019; fax number: (703) 308–7070; email address: *bloom.jill@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. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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. Background on the Receipt of Requests To Amend Registrations To Delete Uses

This notice announces receipt by EPA of requests from the registrant Amvac to delete certain uses of PCNB product registrations. PCNB is a fungicide used to control diseases of turf, ornamentals, cole crops, potatoes, cotton, and other agricultural and horticultural crops. In letters dated November 21, 2011, and August 24, 2012, and as clarified in later discussions, Amvac requested that EPA delete certain uses of the pesticide product registrations identified in Table 1 of Unit III. Specifically, Amvac requested that the Agency amend the technical product registration to delete the use as a seed treatment (except for the treatment of cloves of garlic), as well as the uses on a number of non-residential terrestrial non-food crops. Amvac additionally requested use deletions for two end-use PCNB products as shown in Table 1 of Unit III of this Notice. Amvac is requesting these use terminations pursuant to requests by EPA after the Agency's review of AMVAC's revised Confidential Statement of Formula (CSF) for the technical grade material. These use deletions, along with new directions for use for the remaining uses, will reduce worker exposures to impurities of toxicological significance found in this pesticide. The requests will not terminate the last PCNB products registered in the United States.

III. What action is the agency taking?

This notice announces receipt by EPA of requests from a registrant to delete certain uses of certain PCNB product registrations. The affected products and the registrant making the requests are identified in Tables 1 and 2 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order amending the affected registrations.

TABLE 1—PCNB PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration No.	Product name	Company	Uses to be deleted
5481–197	Technical Grade PCNB	Amvac	African violet; azaleas; bedding plants; begonias; calendula; camellia; carnation; chrysanthemum; larkspur; ornamental flowering plants; poinsettia; roses; snapdragon; and sweet peas. Seed treatments on barley, beans, corn, cotton (acid-delinted, fuzzy, reginned, or mechanically-delinted seed), oats, peanuts, peas, rice, safflower, sorghum, soybeans, sugar beets, and wheat.
5481–8988	Turfcide 10% Granular	Amvac	Bedding plants, flowering plants, foliage plants, and bulb crops.
5481–8992	Turfcide 4F	Amvac	Bedding plants, flowering plants, foliage plants, azaleas, camellias, gladiolus (broadcast), and cut flowers.

Table 2 of this unit includes the name and address of record for the registrant of the products listed in Table 1 of this unit. The company number corresponds to the first part of the EPA registration numbers of the products listed in Table of this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS

EPA Company No.	Company name and address
5481	Amvac Chemical Corporation, 4695 MacArthur Ct., Suite 1200, Newport Beach, CA 92660

IV. 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 or amended to terminate one or more uses. 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) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or
2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The PCNB registrant has requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

V. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for product cancellation or use deletion should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of 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 action. If the requests to delete uses are granted, the Agency intends to publish the use deletion order in the **Federal Register**.

In any order issued in response to these requests to delete uses, EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1 of Unit III.

Once EPA has announced the order to delete the subject uses from these registrations, the registrant will not be permitted to sell or distribute products under the previously approved labeling (that is, product bearing labeling that includes the use sites for which the registrant has requested cancellation), except for export consistent with FIFRA section 17 or for proper disposal.

The registrant will be permitted to relabel the products listed in Table 1 of Unit III to conform with the requested use deletions as long as the registrant has verified that the products have been formulated from Technical PCNB that complies with the certified limits as amended on November 23, 2011 and June 13, 2012, and the registrant retains records demonstrating such compliance.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 22, 2014.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–13232 Filed 6–5–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0301; FRL–9911–68]

Request for Public Comment on Proposed Stipulated Injunction Involving Five Pesticides and Pacific Salmonid Species Listed as Threatened or Endangered Under the Endangered Species Act; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is requesting comments on a proposed stipulated injunction that, among other things, would reinstitute streamside no-spray buffer zones to protect endangered or threatened Pacific salmon and steelhead in California, Oregon, and Washington. The stipulated injunction would settle litigation brought against EPA by the Northwest Center for Alternatives to Pesticides (NCAP) and others in U.S. District Court in Washington State. These buffers were originally established by the same court in prior litigation brought against EPA by the Washington Toxics Coalition (WTC) and others. Like the original buffer zones, the limitations in this proposed stipulated injunction would be part of a court order but would not be enforceable as labeling requirements under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The no-spray buffer zones will apply to the pesticides carbaryl, chlorpyrifos, diazinon, malathion, and methomyl. These buffers would remain in place until EPA implements any necessary protections for Pacific salmon and steelhead based on reinitiated consultations with the National Marine Fisheries Service (NMFS). EPA is reevaluating these pesticides in connection with its current FIFRA registration review process and the proposed stipulated injunction would reinstitute the buffers in the interim. EPA will evaluate all comments received during the 30-day public comment period to determine whether all or part of the proposed stipulated injunction warrants reconsideration or revision.

DATES: Comments must be received on or before July 7, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2014–0301, 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.
- *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: Anita Pease, Environmental Fate and Effects Division (7507P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7695; email address: *pease.anita@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 particular interest to the parties in the *NCAP* v. *EPA* litigation, environmental organizations, professional and recreational fishing interests, other public interest groups, State regulatory partners, other interested Federal agencies, and pesticide registrants and pesticide users. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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.

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

A copy of the proposed stipulated injunction is available in the docket under docket ID number EPA–HQ–OPP–2014–0301.

II. Background

A. What action is the agency taking?

EPA is requesting comments on a proposed stipulated injunction that, among other things, would reinstitute streamside no-spray buffer zones to protect endangered and threatened Pacific salmon and steelhead in California, Oregon, and Washington. The stipulated injunction would settle litigation brought against EPA by NCAP and others in U.S. District Court in Washington State. Like the original buffer zones, the limitations in this proposed stipulated injunction would be part of a court order but would not be enforceable as labeling requirements under FIFRA. To view the interactive map displaying the areas where the buffer zones apply, go to *http://www.epa.gov/espp/litstatus/wtc/uselimitation.htm.* The no-spray buffer zones will apply to the pesticides carbaryl, chlorpyrifos, diazinon, malathion, and methomyl. These buffer zones would remain in place until EPA implements any necessary protections for Pacific salmon and steelhead based on reinitiated consultations with NMFS. EPA is reevaluating these pesticides in connection with its current FIFRA registration review process and the proposed stipulated injunction would reinstate the buffers in the interim.

The no-spray buffers in the proposed stipulated injunction extend 300 feet from salmon supporting waters for aerial applications of the 5 pesticides and 60 feet for ground applications. These same buffers are currently in place for 1,3-dichloropropene (1,3–D or telone), bromoxynil, diflubenzuron, fenbutatin oxide, prometryn, propargite, and racemic metolachlor that are still subject to the original injunction issued in 2004 in *WTC, et al.* v. *EPA.* The buffers for those 7 pesticides will remain in place until the completion of EPA's current Endangered Species Act (ESA) consultations with NMFS.

EPA will evaluate all comments received during the 30-day public comment period to determine whether all or part of the proposed stipulated injunction warrants reconsideration or revision.

B. What is the agency's authority for taking this action?

On November 29, 2010, NCAP and other environmental groups and fishing interests filed a lawsuit in the Federal District Court for the Western District of Washington alleging that EPA failed to comply with ESA sections 7 and 9 (16 U.S.C. 1536 and 1538) with regard to the effects of 6 EPA-registered pesticides (carbaryl, carbofuran, chlorpyrifos, diazinon, malathion, and methomyl) on 28 Pacific salmonid species that are listed as endangered or threatened under ESA (*NCAP,* et al., v. *EPA,* C10–01919 (W.D. Wash.)). Subsequent to the filing of the case, all carbofuran end-use product registrations were cancelled, effectively leaving only 5 pesticides at issue in the litigation. On February 21, 2013, in *Dow Agrosciences LLC* v. *NMFS,* 707 F.3d 462 (4th Cir. 2013), the U.S. Court of Appeals for the 4th Circuit vacated the NMFS biological opinion addressing chlorpyrifos, diazinon, and malathion. Following that ruling, the plaintiffs in the *NCAP* v. *EPA* litigation supplemented their original complaint to assert that in the absence of a valid biological opinion, EPA had failed to complete consultation on those 3 pesticides. In the fall of 2013, the intervenors, CropLife America and other pesticide industry and pesticide user groups, filed a motion to dismiss both that claim and a claim that EPA's registration of the pesticides was in violation of the ''take'' provisions of ESA section 9. On January 28, 2014, Judge Zilly denied intervenors' motion to dismiss these claims. Subsequent to that ruling, the parties filed a stipulated motion to stay the *NCAP* v. *EPA* litigation to allow the parties to discuss the potential for settlement. EPA and the plaintiffs have reached a proposed agreement that would reinstitute the no-spray buffers originally established in the *WTC* v. *EPA* litigation, as explained in Unit II.A., during the period that EPA develops new biological evaluations for salmonid species (which will be completed in connection with the development of EPA's national FIFRA registration reviews for these pesticides). These buffer zones would remain in place until EPA implements any necessary protections for Pacific salmon and steelhead based on reinitiated consultations with NMFS. The agreement is embodied in the proposed stipulated injunction that is being made available for review and comment through this notice. In separate litigation, *NCAP* v. *NMFS,* C07–1791 (W.D. Wash.), NMFS has agreed to complete any consultation EPA reinitiates on chlorpyrifos, diazinon, and malathion by December 2017, and any consultation EPA reinitiates on carbaryl and methomyl by December 2018. These dates are intended to correspond with EPA's FIFRA registration review schedule for these pesticides.

The stipulated injunction would also require EPA to provide notice of the reinstitution of the no-spray buffers zones to numerous groups, including certified applicators, State and local governments, Federal agencies, user groups, extension services, and land grant universities in affected portions of California, Oregon, and Washington. It also requires EPA to provide certain information to the public and pesticide users through the EPA Web site, including maps that highlight the stream reaches where the buffer zones apply.

With this document, EPA is opening a 30-day comment period on the proposed stipulated injunction. EPA will review any comments received during the 30-day public comment period to determine whether all or part of the proposed stipulated injunction warrants reconsideration or revision. If EPA determines that any part of the proposed stipulated injunction merits reconsideration or revision, EPA will contact the plaintiffs concerning this matter and the proposed stipulated injunction will not be submitted to the Court until EPA and plaintiffs reach agreement on any such changes. If EPA determines that the proposed stipulated injunction does not need to be reconsidered or revised, the proposed stipulated injunction will be submitted to the Court and shall become effective upon ratification by the Court. Once the stipulated injunction is ratified by the Court, EPA will post on its Web site at *http://www.epa.gov/pesticides* a notice indicating the stipulated injunction has been so entered.

List of Subjects

Environmental protection, Endangered species.

Dated: June 2, 2014.

Jack Housenger,

Director, Office of Pesticide Programs.

[FR Doc. 2014–13212 Filed 6–3–14; 4:15 pm]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 14–82; DA 14–703]

Patrick Sullivan (Assignor) and Lake Broadcasting, Inc. (Assignee), Application for Consent To Assignment of License of FM Translator Station W238CE, Montgomery, Alabama

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document commences a hearing to determine whether the application of Patrick Sullivan (Sullivan), licensee of FM Translator

Station W238CE, Montgomery, Alabama, to assign the W238CE license to Lake Broadcasting, Inc. (LBI), File No. BALFT–20120523ABY (Assignment Application), should be granted. The hearing will include issues regarding whether LBI's sole shareholder, Michael S. Rice (Rice), is qualified to be a Commission licensee, based on prior proceedings in which authorizations held by companies owned by Rice were revoked based on Rice's felony convictions, and on misrepresentations and lack of candor by Rice and his companies.

DATES: Persons desiring to participate as parties in the hearing shall file a petition for leave to intervene not later than July 7, 2014.

ADDRESSES: Please file documents with the Office of the Secretary, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. Each document that is filed in this proceeding must display on the front page the document number of this hearing, ''MB Docket No. 14–82.''

FOR FURTHER INFORMATION CONTACT: Gary Schonman, Special Counsel, Enforcement Bureau, (202) 418–1420.

SUPPLEMENTARY INFORMATION: This is a summary of the Hearing Designation Order (Order), DA 14–703, adopted May 23, 2014, and released May 23, 2014. The full text of the Order is available for inspection and copying during regular business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, *http://www.bcpi.com*, or call 1–800–378–3160. This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

Summary of the Hearing Designation Order

1. This Order commences a hearing proceeding before an Administrative Law Judge to determine whether the application of Sullivan for Consent to Assignment of the License of FM Translator Station W238CE, Montgomery, Alabama (Station), to LBI (Assignment Application) should be granted. LBI's president, director, and sole shareholder, Rice, is a convicted felon who previously held radio station authorizations, through LBI and other entities, which were revoked on the basis of Rice's felony convictions and misrepresentation to and lack of candor before the Commission.[1] Significant and material questions exist as to whether, on the basis of Rice's criminal convictions and misrepresentations, Rice and, hence, LBI possess the basic character qualifications to hold the Station authorization. Because the Media Bureau (Bureau) is unable to make a determination on the record currently before it that grant of the Assignment Application would serve the public interest, convenience and necessity, it designates the Assignment Application for hearing.

2. On July 5, 1994, Rice was convicted of four felony counts of sodomy, six felony counts of deviate sexual assault in the first degree, and two felony counts of deviate sexual assault in the second degree, involving five children. Rice was sentenced to a total of 84 years in prison, which ran concurrently, thus he was incarcerated for just over five years, and was released from prison in December 1999. At the time of his 1994 conviction, Rice held a 67.5 percent ownership interest in LBI; he subsequently became and remains the owner of all issued shares of LBI's stock.

3. By Order to Show Cause and Notice of Apparent Liability, the Commission directed LBI and two other Rice-owned broadcast companies to show cause why their licenses and construction permits should not be revoked. Following a full and complete evidentiary hearing, the Presiding Administrative Law Judge concluded that Rice's felony convictions and his companies' misrepresentation and lack of candor constituted independent grounds for disqualification of the licensees and revocation of their authorizations. The conclusions reached in the Initial Decision were affirmed through all administrative and judicial appeals.

4. On May 23, 2012, Sullivan filed the Assignment Application, which was accepted for filing May 24, 2012. Sullivan and LBI acknowledge Rice's criminal history, but argue that Rice is now qualified to be a Commission licensee because he has been sufficiently rehabilitated. The Assignment Application was opposed by Child Protect, a Children's Advocacy Center serving Montgomery and surrounding Alabama counties, which filed a December 20, 2012, informal objection.

5. Under Commission policy regarding character qualifications non-FCC misconduct, including evidence of any felony conviction, may raise a substantial and material question of fact concerning a licensee's character. Conviction of certain felonies involving misconduct so egregious as to shock the conscience and evoke almost universal disapprobation might constitute *prima facie* evidence that the applicant lacks the traits of reliability and/or truthfulness necessary to be a licensee. The U.S. Court of Appeals for the District of Columbia Circuit opined that sexual offenses involving minors fall into this category. (*Contemporary Media,* 214 F.3d at 193)

6. The Bureau finds that substantial and material questions remain regarding whether Rice has been sufficiently rehabilitated and, therefore, is qualified to hold the Station's license. First, although Rice was convicted more than a decade ago, the ten-year period that the Commission generally considers as relevant to character considerations has no bearing on whether the underlying allegations of misconduct can be proved or disproved where, as here, there are felony convictions, adverse character determinations, and license revocations that are not subject to retrial in this hearing. Without other compelling evidence of rehabilitation, a rote application of the Commission's general ten-year time limitation policy would not serve the public interest in this instance.

7. The Bureau's review of the materials submitted in support of the Assignment Application leads it to conclude that the testimonials therein are of limited probative value. For example, while LBI avers that the State of Missouri has ''fully restored'' Rice to his rights as a citizen, as evidence of his full rehabilitation, it neither defines ''full restoration of rights,'' nor mentions Rice's required inclusion on an official Sex Offender Registry as a consequence of his conviction. LBI further provides a two-page letter, dated October 31, 2011, from Wayne A. Stillings, M.D. (Stillings), Rice's psychiatrist for the last 20 years, attached to which is Stillings's eight-page Declaration, executed May 17, 2001, more than ten years prior to the letter. Stillings states that Rice's conduct that led to his criminal convictions was the result of a combination of psychiatric illnesses that are physiological in nature, and that Rice could not control his conduct and was unaware of these illnesses prior to commencing treatment in 1991. Stillings states that each of Rice's disorders has

[1] *See Contemporary Media, Inc.,* Initial Decision, 12 FCC Rcd 14254 (ALJ 1997) (*CMI ID*); *Contemporary Media, Inc.,* Decision, 13 FCC Rcd 14437 (1998) (*CMI Decision*), *recon. denied,* Order, 14 FCC Rcd 8790 (1999), *aff'd sub nom.,* Contemporary Media, Inc. v. FCC, 214 F.3d 187 (D.C. Cir. 2000) (*Contemporary Media*), *cert. denied,* 532 U.S. 920, 121 S.Ct. 1355 (2001).

been in remission for approximately ten years, and that there is no reason to anticipate that any of Rice's disorders will again become active as long as Rice continues to take his prescribed medications and to pursue the appropriate therapy. The Bureau finds, however, that Stillings's testimony substantially contradicts the record in this case, or is beyond the scope of expert medical testimony, setting forth conclusions of law rather than of medicine or psychiatry. Moreover, the declaration's age raises questions regarding its probative value.

8. Additionally, the materials submitted do not deal in any meaningful way with Rice's lack of candor and misrepresentation regarding his participation in the management and operation of his stations following his arrest, the second independent ground underlying the revocation of LBI's prior authorizations. Misrepresentation and lack of candor are sufficient grounds for revocation of licenses, and were cited as separate and independent grounds for revoking the Rice Companies' authorizations. (*CMI Decision,* 13 FCC Rcd at 14459) However, LBI's rehabilitation showing is almost exclusively devoted to Rice's criminal convictions. Any determination regarding Rice's or LBI's qualifications to be a Commission licensee must evaluate Rice's candor and truthfulness before the Commission. The Application does not present a sufficient record on which to make that determination. The four letters submitted on Rice's behalf consist either of vague platitudes concerning Rice's honesty, his positions with non-broadcast associations, and his personal kindness, or speak only of Rice's technical expertise as a broadcaster. Such statements shed little light on Rice's character as a potential Commission licensee, particularly given that there is no indication that the declarants are aware of the details of Rice's background or his prior criminal acts, and could therefore speak to his rehabilitation from those past acts. The Bureau is unable to find on the basis of these letters that Rice possesses the requisite good character to become a Commission licensee.

9. With regard to Child Protect's Informal Objection, so considered because it was untimely filed (*see* 47 CFR 73.3584(a)), the above discussion addresses Child Protect's first concern regarding Rice's past criminal convictions and potential rehabilitation. The Bureau finds, however, that Child Protect does not set forth facts sufficient to raise a substantial and material question of fact regarding Rice's alleged control over Station WRZB(AM), Wetumpka, Alabama. Rice's company CMI programs WRZB(AM) pursuant to a Local Marketing Agreement (LMA). Child Protect does not set forth specific facts, supported by the affidavit of a person with personal knowledge, demonstrating that WRZB(AM)'s licensee abrogated its ultimate responsibility for essential station functions. Child Protect therefore does not make out a *prima facie* case of any statutory or rule violation, and the Bureau declines to designate this issue.

10. In light of the foregoing, the Bureau believes that there remain substantial and material questions of fact as to whether Rice, and therefore LBI, possesses the requisite character qualifications to be a Commission licensee. Having examined all of the record evidence regarding Rice's character and finding it lacking in probative value, and given the seriousness of the criminal behavior in which Rice engaged, the Bureau believes that a hearing before an Administrative Law Judge is warranted. Such a hearing will provide the best forum to evaluate whether Rice has been rehabilitated to an extent that the Commission is fully confident Rice will refrain from engaging in the kind of behavior for which he was convicted; Rice and/or LBI can be relied upon to be truthful, candid, and forthcoming in their dealings with the Commission; and Rice and/or LBI will comply in all other respects with the Commission's Rules, regulations, and policies. Consequently, appropriate issues will be designated for hearing.

11. *Accordingly, it is ordered* that, pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e), the Assignment Application, File No. BALFT–20120523ABY, *is designated for hearing* in a proceeding before an FCC Administrative Law Judge, at a time and place to be specified in a subsequent Order, upon the following issues: (a) To determine the effects, if any, of Michael S. Rice's felony convictions on his qualifications and/or the qualifications of Lake Broadcasting, Inc., to be a Commission licensee; (b) To determine the effects, if any, of the misrepresentation and lack of candor by Michael S. Rice's broadcast companies on his qualifications and/or the qualifications of Lake Broadcasting, Inc., to be a Commission licensee; (c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Michael S. Rice and/or Lake Broadcasting, Inc., is qualified to be a Commission licensee; and (d) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the captioned Application for consent to the assignment of license for Station W238CE should be granted.

12. *It is further ordered* that to avail themselves of the opportunity to be heard and the right to present evidence at a hearing in these proceedings, pursuant to § 1.221 of the Commission's rules, Lake Broadcasting, Inc., and Patrick Sullivan, in person or by their attorneys, *shall file,* within 20 days of the mailing of this Hearing Designation Order, written appearances in triplicate stating their respective intentions to appear on the date fixed for hearing and to present evidence on the issues specified in this Hearing Designation Order.

13. *It is further ordered,* pursuant to § 1.221 of the Commission's rules, that if Lake Broadcasting, Inc., or Patrick Sullivan fails to file a written appearance within the time specified above, or has not filed prior to the expiration of that time a petition to dismiss without prejudice, or a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 days, the Presiding Administrative Law Judge shall expeditiously dismiss the captioned application with prejudice for failure to prosecute.

14. *It is further ordered* that the Chief, Enforcement Bureau, *is made a party* to this proceeding without the need to file a written appearance.

15. *It is further ordered,* that a copy of each document filed in this proceeding subsequent to the date of adoption of this Hearing Designation Order *shall be served* on the counsel of record appearing on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations & Hearings Division of the Enforcement Bureau at (202) 418–1420. Such service copy *shall be addressed* to the named counsel of record, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

16. *It is further ordered,* that the Presiding Administrative Law Judge shall not, in the context of this hearing proceeding, relitigate any of the findings of fact and/or conclusions of law contained in any order or opinion relating to the state court proceeding in which Michael S. Rice was determined to be a convicted felon or in any order or opinion relating to the Commission proceeding in which Michael S. Rice and/or the broadcast companies in which he held an interest were

previously determined to be unqualified.

17. *It is further ordered,* that, in accordance with section 309(e) of the Communications Act of 1934, as amended, the burdens of proceeding with the introduction of evidence and of proof with respect to all issues designated herein SHALL BE upon the parties to the captioned application.

18. *It is further ordered* that, given the very serious questions that exist as to whether Michael S. Rice and/or Lake Broadcasting, Inc. is qualified to hold a Commission license and operate a radio facility in the public interest, the Presiding Administrative Law Judge shall, to the fullest extent possible, ensure that each of the issues designated herein is thoroughly explored and his Initial Decision is predicated on a full and complete evidentiary record.

19. *It is further ordered,* that the parties to the captioned application shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. 311(a)(2), and § 73.3594 of the Commission's rules, 47 CFR 73.3594, GIVE NOTICE of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Commission's rules, 47 CFR 73.3594(g).

20. *It is further ordered* that the December 20, 2012, letter filing of Child Protect *is dismissed* as a Petition to Deny. *It is further ordered* that the December 20, 2012, letter filing of Child Protect *is denied* as an Informal Objection as to the allegations therein regarding an unlawful transfer of control of station WRZB(AM) to Contemporary Media, Inc. and/or Michael S. Rice.

21. *It is further ordered* that copies of this Hearing Designation Order *shall be sent* via Certified Mail, Return Receipt Requested, and by regular first class mail to the following: Jerold L. Jacobs, Esq., Law Offices of Jerold L. Jacobs, 1629 K Street NW., Suite 300, Washington, DC 20006 (Attorney for Patrick Sullivan and Lake Broadcasting, Inc.); Patrick Sullivan, 22932 Abrolat Road, Wright City, MO 63390; Lake Broadcasting, Inc., P.O. Box 1268, St. Peters, MO 63376; Jannah M. Bailey, Executive Director, Child Protect, 935 S. Perry Street, Montgomery, AL 36104.

Federal Communications Commission.

William T. Lake,

Chief, Media Bureau.

[FR Doc. 2014–13266 Filed 6–5–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been reissued pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License No.: 020911N.
Name: Cargois Inc. dba SV Logis Inc.
Address: 10700 Seymour Avenue, Franklin Park, IL 60131.
Date Reissued: October 29, 2013.

License No.: 023291N.
Name: BK Logistics Corp.
Address: 19500 S. Rancho Way, Suite 103, Rancho Dominguez, CA 90220.
Date Reissued: May 7, 2014.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–13216 Filed 6–5–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations and Terminations

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been revoked or terminated for the reason indicated pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101) effective on the date shown.

License No.: 001758F.
Name: Rebel Forwarding, Inc.
Address: 2100 South Alameda Street, Long Beach, CA 90221.
Date Revoked: May 1, 2014.
Reason: Failed to maintain a valid bond.

License No.: 2405F.
Name: Guadalupe L. De Leon dba Espinoza Forwarding.
Address: 40 Meadow Lea Drive, Houston, TX 77022.
Date Revoked: May 1, 2014.
Reason: Failed to maintain a valid bond.

License No.: 14383F.
Name: Technical Consulting Shipping, Inc. dba T.C. Shipping, Inc.
Address: 19407 Park Row, Suite 195, Houston, TX 77084.
Date Revoked: May 5, 2014.
Reason: Failed to maintain a valid bond.

License No.: 016887NF.
Name: Itochu Automobile America Inc.
Address: 33533 W. 12 Mile Road, Suite 300, Farmington Hills, MI 48331.
Date Revoked: May 15, 2014.
Reason: Voluntary surrender of license.

License No.: 018403N.
Name: ITS International Container Lines Inc.
Address: 108 South Franklin Avenue, Suite 8, Valley Stream, NY 11580
Date Revoked: May 13, 2014.
Reason: Voluntary surrender of license.

License No.: 019421F.
Name: Logistics NW LLC.
Address: 4370 NE. Halsey Street, Suite 228, Portland, OR 97213.
Date Revoked: May 9, 2014.
Reason: Failed to maintain a valid bond.

License No.: 021753NF.
Name: BC Worldwide Logistics, Inc.
Address: 12006 Scarlet Oak Trail, Conroe, TX 77385.
Date Revoked: May 5, 2014.
Reason: Failed to maintain valid bonds.

License No.: 022366NF.
Name: High Cube, LLC.
Address: 469 North Central Avenue, Upland, CA 91786.
Date Revoked: May 15, 2014.
Reason: Voluntary surrender of license.

License No.: 022573NF.
Name: International First Service USA, Inc. dba Global Wine Logistics, Inc.
Address: 197 Route 18 South, Suite 3000, East Brunswick, NJ 08816.
Date Revoked: May 3, 2014.
Reason: Failed to maintain valid bonds.

License No.: 022575N.
Name: JDI Shipping LLC.
Address: 42840 Christy Street, Suite 231, Fremont, CA 94538.
Date Revoked: April 30, 2014.
Reason: Failed to maintain a valid bond.

License No.: 022638NF.
Name: Guardian International, Inc.
Address: 3728 Lake Avenue, Fort Wayne, IN 46805.
Date Revoked: May 10, 2014.
Reason: Failed to maintain valid bonds.

License No.: 022840NF.
Name: Yang Kee Logistics USA Inc.
Address: 880 Apollo Street, Suite 101, El Segundo, CA 90245.
Date Revoked: May 1, 2014.
Reason: Voluntary surrender of license.

License No.: 023291F.
Name: BK Logistics Corp.
Address: 19500 S. Rancho Way, Suite 103, Rancho Dominguez, CA 90220.
Date Revoked: May 7, 2014.

Reason: Voluntary surrender of license.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–13215 Filed 6–5–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

May 30, 2014.

TIME AND DATE: 10 a.m., Thursday, June 12, 2014

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (entry from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the following matters: *Secretary of Labor* v. *Emerald Coal Resources, LP,* Docket Nos. PENN 2009–697, et al.; *Secretary of Labor* v. *Emerald Coal Resources, LP,* Docket Nos. PENN 2010–445–R, et al.; *Secretary of Labor* v. *Emerald Coal Resources, LP,* Docket No. PENN 2011–168; *Secretary of Labor v. Cumberland Coal Resources, LP,* Docket No. PENN 2012–278. (Issues include whether the Administrative Law Judges erred in concluding that impermissible accumulations of coal existed.)

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2014–13071 Filed 6–4–14; 11:15 am]

BILLING CODE 6735–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting Notice

May 30, 2014.

TIME AND DATE: 10 a.m., Wednesday, June 18, 2014.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (entry from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Emerald Coal Resources, LP,* Docket Nos. PENN 2009–697, et al.; *Secretary of Labor* v. *Emerald Coal Resources, LP,* Docket Nos. PENN 2010–445–R, et al.; *Secretary of Labor* v. *Emerald Coal Resources, LP,* Docket No. PENN 2011–168; *Secretary of Labor* v. *Cumberland Coal Resources, LP,* Docket No. PENN 2012–278. (Issues include whether the Administrative Law Judges erred in concluding that impermissible accumulations of coal existed.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2014–13057 Filed 6–4–14; 11:15 am]

BILLING CODE 6735–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice-MVC–2014–01; Docket No. 2014–0054; Sequence 1]

Expanded Reporting of Nonconforming Items; Corrections

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting; Corrections.

SUMMARY: DoD, GSA and NASA are issuing corrections to amend the meeting time and registration time that was published in the **Federal Register** on May 15, 2014.

DATES: *Effective:* June 6, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, GSA, at 202–501–0650 or email *Edward.Loeb@gsa.gov*. Please cite Notice-MVC–2014–01; Public Meeting—Expanded Reporting of Nonconforming Items; Corrections.

SUPPLEMENTARY INFORMATION:

Corrections

In the notice FR Doc. 2014–11225 published in the **Federal Register** at 79 FR 27870, May 15, 2014, make the following corrections:

1. On page 27870, in the third column, under **DATES**, remove ''1:00 p.m. to 5:00 p.m.'' and add ''1:30 p.m. to 5:30 p.m.'' in its place.

2. On page 27871, in the first column, under **SUPPLEMENTARY INFORMATION**, in the Pre-Registration paragraph, fourth sentence, remove ''begin at 12:00 p.m., and the meeting will start at 1:00 p.m. and conclude by 5:00 p.m., eastern'' and add ''begin at 12:30 p.m., and the meeting will start at 1:30 p.m. and conclude by 5:30 p.m., eastern'' in its place.

Dated: June 2, 2014.

William Clark,

Acting Director, Federal Acquisition Policy Division.

[FR Doc. 2014–13179 Filed 6–5–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Pilot Program of Mailed Fecal Immunochemical Tests to Increase Colorectal Cancer Screening Rates, Special Interest Projects (SIP) 14–012; Understanding the Barriers to Colorectal Cancer Screening among South Central Asian Immigrants in the United States, SIP14–013; and Development and Evaluation of Active Surveillance Decision aid for Men with Low-grade, Local-stage Prostate Cancer, SIP14–014, Panel D, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Times and Dates:

9:30 a.m.–6:00 p.m., June 19, 2014 (Closed).
9:30 a.m.–6:00 p.m., June 20, 2014 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters For Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Pilot Program of Mailed Fecal Immunochemical Tests to Increase Colorectal Cancer Screening Rates, SIP14–012; Understanding the Barriers to Colorectal Cancer Screening among South Central Asian

Immigrants in the United States, SIP 14–013; and Development and Evaluation of Active Surveillance Decision aid for Men with Low-grade, Local-stage Prostate Cancer, SIP14–014, Panel D, initial review.''

Contact Person For More Information: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., F.A.C.E., Deputy Associate Director for Science, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE., Mailstop F–63, Atlanta, Georgia 30341, Telephone: (770) 488–4655, *GXC8@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–13227 Filed 6–5–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH or Institute)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Times and Dates:

8:00 a.m.–5:00 p.m., June 26, 2014 (Closed).
8:00 a.m.–5:00 p.m., June 27, 2014 (Closed).

Place: Embassy Suites, 1900 Diagonal Road, Alexandria, Virginia 22314, Telephone: 703–684–5900, Fax: 703–684–0653.

Purpose: The Safety and Occupational Health Study Section will review, discuss, and evaluate grant application(s) received in response to the Institute's standard grants review and funding cycles pertaining to research issues in occupational safety and health, and allied areas.

It is the intent of NIOSH to support broad-based research endeavors in keeping with the Institute's program goals. This will lead to improved understanding and appreciation for the magnitude of the aggregate health burden associated with occupational injuries and illnesses, as well as to support more focused research projects, which will lead to improvements in the delivery of occupational safety and health services, and the prevention of work-related injury and illness. It is anticipated that research funded will promote these program goals.

Matters For Dicussion: The meeting will convene to address matters related to the conduct of Study Section business and for the study section to consider safety and occupational health-related grant applications.

These portions of the meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, Centers for Disease Control and Prevention, pursuant to Section 10(d) Public Law 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Price Connor, Ph.D., NIOSH Health Scientist, CDC, 2400 Executive Parkway, Mailstop E–20, Atlanta, Georgia 30345, Telephone: (404) 498–2511, Fax: (404) 498–2571.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–13228 Filed 6–5–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Center of Excellence to Promote a Healthier Workforce (U19) RFA–OH–14–003, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 1:00 p.m.–4:00 p.m., June 26, 2014 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters For Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Center of Excellence to Promote a Healthier Workforce (U19) RFA–OH–14–003, initial review.''

Contact Person For More Information: Joan F. Karr, Ph.D., Scientific Review Officer, CDC/NIOSH, 1600 Clifton Road NE., Mailstop E–74, Atlanta, Georgia 30333, Telephone: (404) 498–2506.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–13225 Filed 6–5–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Cancer Prevention and Control Research Network (CPCRN)—Coordinating Center, Special Interest Projects (SIP) 14–010, and Cancer Prevention and Control Research Network (CPCRN)—Collaborating Centers, SIP 14–011, Panel F1, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Times and Dates:

9:30 a.m.–6:00 p.m., June 24, 2014 (Closed).
9:30 a.m.–6:00 p.m., June 25, 2014 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Cancer Prevention and Control Research Network (CPCRN)—Coordinating Center, Special Interest Projects (SIP)14–010, and Cancer Prevention and Control Research Network (CPCRN)—Collaborating Centers, SIP14–011, Panel F1, initial review.''

Contact Person for More Information: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., F.A.C.E., Deputy Associate Director for Science, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE., Mailstop F–63, Atlanta, Georgia 30341, Telephone: (770) 488–4655, *GXC8@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices

pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–13226 Filed 6–5–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 79 FR 25867–25874, dated May 6, 2014) is amended to reflect the reorganization of the National Center for Health Statistics.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the title and the mission and function statements for the Office of Management and Operations (CPC12) and insert the following:

Office of Management and Operations (CPC12). (1) Participates in the development of policy, long-range plans, and programs of the National Center for Health Statistics (NCHS); (2) plans, coordinates, directs, and provides advice and guidance on management and administrative operations of NCHS in the areas of fiscal management, human capital, employee development, travel, records management, information management, and other administrative related services; (3) manages and coordinates NCHS requirements related to contracts, grants, cooperative agreements, interagency agreement, and reimbursable agreements; (4) reviews the effectiveness and efficiency of the operation and administration of all programs of the Center; (5) conducts management and organizational analyses as well as provides consultation and advice on program reorganizations; (6) plans, directs, and coordinates building support services and work life activities of NCHS; and (7) serves as the Collective Bargaining Official for NCHS.

Building Operations and Services Staff (CPC122). (1) Plans, directs, and coordinates facilities support and worklife functions for NCHS; (2) maintains liaison and assures compliance with federal, state, and local government emergency, environmental, postal, safety, security, and health regulations; (3) develops and implements facilities related policies and procedures to maintain compliancy, increase efficiency, and improve customer service; (4) manages facility operations including building maintenance, custodial, lease enforcement, facility improvements, and parking; (5) manages the government vehicle program; (6) manages the NCHS sustainability program to promote environmental, conservation, and recycling stewardship in the workplace; (7) manages logistics support for on-site conferences, meetings, seminars, ceremonies, and other special events; (8) manages the safety program to assure compliancy and to prevent unsafe work practices; (9) manages physical security operations, including; the security guard oversight to safeguard personnel, personal property, equipment, and building resources; (10) manages the personnel identification badge function and serves as the Centers for Disease Control and Prevention (CDC) regional Personal Identification Verification Card Issuing Facility for issuing the Smartcard; (11) manages the continuity of operations plan to ensure the capability of carrying out essential functions during the lack of access to the primary work facility; (12) manages the lifecycle of personal property, furniture, and equipment to include repair, replacement, loan, donation, and disposition; (13) manages mail center operations and receiving and shipping activities; (14) manages Center-wide copying service; and (15) manages work life activities to support healthy choices and behaviors in the workplace for improving the health and resilience of all employees.

Business Logistics Staff (CPC123). (1) Facilitates the development, issuance, and implementation of NCHS administrative policies and standard operating procedures; (2) performs assessments to identify and address policy and procedures gaps, and provides advice and guidance on policies and procedures that impact NCHS; (3) serves as the NCHS liaison with the CDC Management Analysis and Services Office regarding delegations of authority, policy and procedures development, internal controls, records and forms management; (4) manages the NCHS records management program; (5) provides Administrative Officer support services to NCHS offices and divisions; (6) coordinates program and administrative delegations of authority for NCHS and develops appropriate delegating documents; (7) serves as the NCHS liaison with the CDC Ethics Program Activity; (8) develops and disseminates administrative communications via email announcements, web (intranet) and electronic publications; (9) develops and maintains the NCHS business services intranet Web site(s); (10) develops, conducts, and coordinates NCHS management and business process studies and internal control activities and makes recommendations for improved business service processes; (11) provides oversight, guidance, and coordination of acquisition activities for NCHS; (12) serves as the Centers liaison to the CDC Procurement and Grants Office, providing guidance and assistance to NCHS offices and divisions on the development and administration of contracts, grants, cooperative agreements, interagency agreements and memorandums of understanding; (13) maintains the official NCI–IS library of administrative policies and procedures; (14) provides electronic form services for NCHS, including development and inventory management of NCI–IS administrative forms; (15) manages and coordinates domestic and international travel activities for NCHS, NCHS, providing guidance on policy and procedures related to travel and providing support for transportation, change of station and travel cards; (16) serves as the NCHS liaison with the CDC Office of the Associate Director for Communication for the development and dissemination of electronic announcements; and (17) manages the conference clearance and approval process for NCHS.

Workforce and Career Development Staff (CPC124). (1) Serves as advisor and manages human capital activities for NCHS that will improve the Center's organizational effectiveness, employee morale, motivation, and productivity; (2) develops and implements NCHS internal administrative human capital related policies and procedures as appropriate for NCHS and maintains liaison with related staff offices and other officials of CDC; (3) coordinates and manages the NCHS incentive and honor award programs including planning and coordinating the annual NCHS Director's Awards Ceremony; (4) coordinates and manages the NCHS performance appraisal system in accordance with Office of Personnel Management, Department of Health and

Human Services, and CDC policies, procedures and regulations; (5) coordinates the processing of personnel actions and activities in the areas of recruitment, staffing and retention of NCHS staff; (6) provides advice and guidance on strategies and tools available to effectively recruit, retain and plan for succession of staff knowledge and skills; (7) directs organizational development activities for NCHS that focus on skill assessment, career counseling, training administration, workforce planning and conflict management; (8) provides advice, guidance and assistance to NCHS on the establishment or modification of position development, organizational structure and functional assignments; (9) coordinates the administration of the NCHS fellowship and intern program; (10) serves as the NCHS diversity champion for NCHS and oversees the implementation of diversity initiatives; (11) coordinates and manages telework and transhare programs; (12) manages the new employee orientation process; (13) serves as liaison with the HRO and NCHS supervisors on employee and labor relations activities; (14) coordinates and provides advice and guidance on a variety of administrative functions related to pay and leave administration; (15) coordinates all activities related to personnel security, ensuring that all employees complete the proper security clearances; and (16) serves as the liaison with the Office of Commissioned Corps Personnel for NCHS Commissioned Officers.

Delete in its entirety the title and the mission and function statements for the Office of Information Technology (CPC17) and insert the following:

Office of Information Technology (CPC17). (1) Directs, plans and coordinates information technology services for NCHS; (2) serves as the focal point for information technology (IT) research activities for NCHS-wide systems and in that capacity represents NCHS in developing technology partnerships with other agencies, both public and private; (3) maintains knowledge of strategic business processes in the private and public sector, and leads the development of information technology policy planning for NCHS; (4) provides for the development and implementation of the Information Technology Plan for NCHS and directs the maintenance of the information technology architecture of NCHS; (5) serves as the focal point for the NCHS Information Technology Advisory Board and its working groups and serves as a clearinghouse for IT information on issues under consideration by the Board; (6) conducts applied research studies on existing and emerging information technologies and methodologies, and their applicability to NCHS critical business needs; (7) provides information resources management policy coordination for the Center and systems contract support; (8) represent NCI–IS to other public and private health agencies, foundations and statistical agencies on information technology activities; (9) provides software consultation, data base management, research, design, and support services needed by NCHS survey, registration and administrative systems, emphasizing projects which are not program specific; (10) plans, coordinates and conducts the NCHS computer training activities to enhance the use of information technologies and methodologies by Center staff; (11) manages and administers contracts for Center-wide emerging information technology services; and (12) actively participates with state, national and international agencies, associations, foundations and working groups involved in emerging technologies to enhance the IT environment between NCHS and its partners.

Office of the Director (CPC171). (1) In partnership with NCHS programs, devises IT practices and procedures and provides direction, planning and evaluation for overall information technology services and infrastructure at NCHS; (2) identifies needs and makes recommendations for procurement of technology and services to support NCHS activities; (3) evaluates and recommends new information technology software and methods in support of NCHS programs; (4) serves as the primary point of contact in NCHS to represent the Center's IT infrastructure service needs to the CDC Information Technology Services Office (ITSO); (5) develops and administers an annual planning process to identify all requirements of NCHS programs for new IT Infrastructure products and services; (6) maintains close collaboration with CDC (ITS) and coordinates capital planning and business case development for NCHS IT investments; (7) provides continuous evaluation of the NCHS IT program to certify adherence to all HI–IS Enterprise Architecture and CDC IT infrastructure policies, and technical standards; (8) provides technical assistance and information exchange services regarding NCHS information technology activities to federal, state and local, public and private organizations; and (9) represents NCHS at national and international meetings regarding emerging information technologies and methodologies.

Information Technology Solutions and Services Staff (CPC172). (1) Conducts and evaluates studies on emerging technologies as input to the information resource management planning process and serves as a clearinghouse on these emerging technologies for NCHS; (2) consults and advises for IT project management, information assurance services (e.g., cyber-security, certification and accreditation), and software life-cycle development that enable NCHS business delivery; (3) develops information technology solutions to bridge gaps between enterprise systems, business requirements and program solutions; (4) develops practices and procedures for NCHS information technology services and solution architectures; (5) partners with NCHS Offices and Divisions, outside agencies and the states, to pilot technology solutions that satisfy emerging business requirements for data access, storage, and dissemination; (6) develops and implements NCHS IT strategic planning processes to identify new requirements and to validate existing requirements for IT products and services; (7) provides technical consultation to NCHS Offices/Divisions for contracting of information management services, including solution development and integration of technology innovation; (8) chairs the NCHS Information Resource Governance Board; (9) participates in workgroups, committees and other collaborations that advance information exchange between NCHS and its partners and advancement of technology solutions through state, national and international informatics initiatives; and (10) advises and organizes IT user groups to advance the value of communities of interest/practice in support of IT innovation.

Dated: May 27, 2014.

Sherri A. Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2014–13074 Filed 6–5–14; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS Computer Match No. 2013–12; HHS Computer Match No. 1307; SSA Computer Match No. 1097–1899]

Privacy Act of 1974

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of Modification of Existing Computer Matching Program (CMP).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, CMS proposes the following modifications to the existing CMP ''Computer Matching Agreement between the Department of Health and Human Services, Centers for Medicare & Medicaid Services and the Social Security Administration for Determining Enrollment or Eligibility for Insurance Affordability Programs under the Patient Protection and Affordable Care Act'', CMS Computer Match No. 2013–12, HHS Computer Match No. 1307, SSA Computer Match No. 1097–1899, published at 78 FR 48170 (August 7, 2013):

1. Add a statement that CMS is responsible for providing and publishing notice of any modification of the matching program;
2. Add Quarters of Coverage to the list of data elements that SSA will provide to CMS; add qualifiers, so that the response that SSA will provide to CMS is limited to data elements that are ''relevant and responsive to CMS' request;'' and
3. Increase two estimates (total number of batch transactions in 2014, and total number of batch transactions in the highest month in 2014) to update the number of transactions approximated for Fiscal Year 2014.

DATES: *Effective Dates:* Comments are invited on all portions of this notice. Public comments are due 30 days after publication. The modifications to the existing matching program will become effective no sooner than 40 days after the report of the modifications is sent to the Office of Management and Budget (OMB) and Congress, or 30 days after publication in the **Federal Register**, whichever is later.

ADDRESSES: The public should send comments to: CMS Privacy Officer, Division of Privacy Policy, Privacy Policy and Compliance Group, Office of E-Health Standards & Services, Offices of Enterprise Management, CMS, Room S2–24–25, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9:00 a.m.–3:00 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Aaron Wesolowski, Director, Verifications Policy & Operations Branch, Division of Eligibility and Enrollment Policy and Operations, Center for Consumer Information and Insurance Oversight, CMS, 7501 Wisconsin Avenue, Bethesda, MD 20814, Office Phone: (301) 492–4416, Facsimile: (443) 380–5531, E-Mail: *Aaron.Wesolowski@cms.hhs.gov*

SUPPLEMENTARY INFORMATION: CMS proposes to modify the existing CMP as follows:

1. Revise the ''Responsibilities of the Parties'' section at IV.A.6. to add that CMS will be responsible for providing and publishing ''notice of any modification of this Matching Program'';
2. Revise the ''Description of Matched Records'' section at VI.B.5. by adding Quarters of Coverage to the list of data elements provided by SSA; and to replace the phrase ''SSA will provide CMS a response including'' with the more limiting phrase ''Depending on CMS's request, SSA's response will include each of the following data elements that are relevant and responsive to CMS's request''; and
3. Revise the chart in the ''Description of Matched Records'' section at VI.C. to reflect updated estimates of the (1) total number of batch transactions in 2014 (increasing the estimate from 5.6 million to 18,166,666) and (2) total number of batch transactions in the highest month in 2014 (increasing the estimate from 5.6 million to 11,883,333).

The proposed modifications to the existing matching program meet the requirements of the Privacy Act of 1974, as amended.

Dated: June 2, 2014.

David Nelson,

Deputy Chief Operating Officer, Centers for Medicare & Medicaid Services.

CMS Computer Match No. 2013–12
HHS Computer Match No. 1307
SSA Computer Match No. 1097–1899

NAME:

''Modification to Computer Matching Agreement between the Department of Health and Human Services, Centers for Medicare & Medicaid Services and the Social Security Administration for Determining Enrollment or Eligibility for Insurance Affordability Programs under the Patient Protection and Affordable Care Act''

SECURITY CLASSIFICATION:

Unclassified

PARTICIPATING AGENCIES:

Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS), and the Social Security Administration (SSA)

AUTHORITY FOR CONDUCTING MATCHING PROGRAM:

The modifications to the existing CMP are executed to comply with the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, OMB Circular A–130, titled ''Management of Federal Information Resources'' at 61 **Federal Register** (FR) 6428–6435 (February 20, 1996), and OMB guidelines pertaining to computer matching at 54 FR 25818 (June 19, 1989) and 56 FR 18599 (April 23, 1991); and the computer matching portions of Appendix I to OMB Circular No. A–130, as amended at 61 FR 6428 (February 20, 1996).

Sections 1411 and 1413 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (collectively, the ACA) require the Secretary of HHS to establish a program for determining eligibility for certain Insurance Affordability Programs, certifications of Exemption, and authorize use of secure, electronic interfaces and an on-line system for the verification of eligibility. Pursuant to 5 U.S.C. 552(b)(3) Federal agencies, such as HHS/CMS and SSA, may disclose information from their SORs under a routine use.

PURPOSE(S) OF THE MATCHING PROGRAM:

SSA and HHS/CMS are parties to a Computer Matching and Privacy Protection Act Agreement, CMS Agreement No. 2013–12, HHS Agreement No. 1307, SSA Agreement No. 1097–1899 (the Agreement), regarding the terms, conditions, safeguards, and procedures under which SSA will disclose information to CMS in connection with the administration of Insurance Affordability Programs under the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (collectively, the ACA) and its implementing regulations. Under the Agreement, SSA will provide data to CMS and CMS will use SSA data needed to make initial Eligibility Determinations, Eligibility Redeterminations and Renewal decisions, including appeal determinations, for Insurance Affordability Programs (as defined

under the Agreement) and Certifications of Exemption.

DESCRIPTION OF RECORDS TO BE USED IN THE MATCHING PROGRAM:

The matching program is conducted with data maintained by CMS in the Health Insurance Exchanges System (HIX), CMS System No. 09–70–0560, as amended, published at 78 FR 8538 (Feb. 6, 2013), 78 FR 32256 (May 29, 2013) and 78 FR 63211 (October 23, 2013).

The matching program is also conducted with data maintained by SSA in the following SORs:

- Master Files of SSN Holders and SSN Applications, SSA/OEEAS, 60–0058, 75 FR 82121 (December 29, 2010), as amended 78 FR 40542 (July 5, 2013);
- Prisoner Update Processing System (PUPS), SSA/OPB, 60–0269, 64 FR 11076 (March 8, 1999), as amended 72 FR 69723 (December 10, 2007) and 78 FR 40542 (July 5, 2013);
- Master Beneficiary Record, SSA/ORSIS, 60–0090, 71 FR 1826 (January 11, 2006), as amended 72 FR 69723 (December 10, 2007) and 78 FR 40542 (July 5, 2013);
- Earnings Recording and Self-Employment Income System, SSA/OEEAS, 60–0059, 71 FR 1819 (January 11, 2006), as amended 78 FR 40542 (July 5, 2013).

INCLUSIVE DATES OF THE MATCH:

The modifications to the CMP shall become effective no sooner than 40 days after the report of the modifications to the matching program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, whichever is later. The modifications to the existing matching program will continue for the duration of the Agreement and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 2014–13249 Filed 6–5–14; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; State and Community Tobacco Control Research Initiative Evaluation (NCI)

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 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 to address 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) The quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To submit comments in writing, request more information on the proposed project, or to obtain a copy of the data collection plans and instruments, contact Elizabeth M. Ginexi, Ph.D., Tobacco Control Research Branch, Behavioral Research Program, Division of Cancer Control and Population Sciences, National Cancer Institute, 9609 Medical Center Drive, Room 3E564 MSC 9761, Bethesda, Maryland 20892–9761 or call non-toll-free number 240–276–6765 or Email your request, including your address to: *LGinexi@mail.nih.gov.*

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: State and Community Tobacco Control Research Initiative Evaluation (SCTC), 0925, NEW submission, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Cancer Institute State and Community Tobacco Control Research Initiative is a program within the Tobacco Control Research Branch in the Behavioral Research Program of the Division of Cancer Control and Population Sciences. The program targets 4 high-priority tobacco control research areas at the state and community level in the United States: (1) Secondhand smoke policies, (2) Tobacco tax and pricing policies, (3) Mass media countermeasures and community and social norms, and (4) Tobacco industry practices. The initiative supports innovative research to yield rapid and actionable findings for state and community tobacco control programs. The purpose of the evaluation is to assess the dissemination, implementation, and community collaboration processes of the grantees and their respective state and community partners and stakeholders. The evaluation will utilize archival grant project data and archival data collected from the scientists in the first two years of the initiative. The evaluation also will collect new data to: (1) Determine relationships, interactions, and connectedness among different network partnerships over time and with policy makers; (2) assess the utility of research tools, interventions, products, and findings from the perspective of key tobacco control stakeholders; and (3) determine key indicators for broad adoption of research products. Results will address research-to-practice gaps by providing a critical window into the process of disseminating evidence-based research tools, products, and science findings in community public health settings. Intended audiences include staff at NIH Institutes and Centers interested in supporting translation/dissemination and implementation science.

OMB approval is requested for one year. There are no costs to respondents other than their time. The total estimated annualized burden hours are 112.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Data collection type	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
SCTC Scientist	Web Survey	60	1	20/60	20
Affiliated Partner	Web Survey	71	1	20/60	24

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Data collection type	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
	Telephone Interview	21	1	40/60	14
	Script to Schedule Telephone Interview.	7	1	5/60	1
Pilot Project	Telephone Interview	6	1	40/60	4
Working Group	Telephone Interview	6	1	40/60	4
Coordinating Center	Telephone Interview	2	1	40/60	1
PI/Co-PI	Expert Panel	18	1	1.5	27
	Consent Form	18	1	5/60	2
	Telephone Script to Schedule Interview.	6	1	5/60	1
	Telephone Interview	21	1	40/60	14
Total					112

Dated: June 2, 2014.

Karla Bailey,

NCI Project Clearance Liaison, NCI, NIH.

[FR Doc. 2014–13271 Filed 6–5–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR Part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: Technology descriptions follow.

RNA Splicing Inhibitors To Treat Cancers

Description of Technology: Vemurafenib is a B-Raf enzyme inhibitor that causes cell death in melanoma tumor cells that possess a mutated B-Raf protein (V600E BRAF mutation); however, patients rapidly develop resistance. One mechanism for acquired resistance of these patients to BRAF inhibitors has been found to be mediated by the existence of BRAF (V600E) splicing variants that possess structural changes in BRAF that confer insensitivity to BRAF inhibitors.

Researchers at the National Cancer Institute have discovered that RNA splicing inhibitors can block the growth of vemurafenib-resistant tumors. Further, the researchers have also found that other types of tumors that possess BRAF splicing isoforms are susceptible to RNA splicing inhibitors.

Available for licensing are methods of using RNA splicing inhibitors to treat tumors, including melanomas, and methods to detect tumors that possess certain BRAF splicing isoforms susceptible to RNA splicing inhibitors.

Potential Commercial Applications: Therapeutic agents to treat tumors.

Competitive Advantages: No discernible toxicity in mice.

Development Stage: Early-stage; In vitro data available; In vivo data available (animal).

Inventors: Thomas A. Misteli and Maayan Salton-Morgenstern (NCI).

Intellectual Property: HHS Reference No. E–065–2014/0—U.S. Application No. 61/974,378 filed 02 Apr 2014.

Licensing Contact: Patrick McCue, Ph.D.; 301–435–5560; *mccuepat@od.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize the development of RNA splicing modulators as therapeutic agents in cancer. For collaboration opportunities, please contact John D. Hewes, Ph.D. at *hewesj@mail.nih.gov.*

Treatment of Chronic Kidney Disease With Synthetic Amphipathic Peptides

Description of Technology: The invention is directed to treatment of chronic kidney disease by administering a synthetic, amphipathic helical peptide known as 5A–37pA, and novel derivatives thereof. Scientists at NIDDK have demonstrated that invention peptides antagonize activity of a particular scavenger receptor known as CD36. Using an in vivo model, NIDDK scientists have shown that invention peptides slowed progression of chronic kidney disease and can potentially be utilized as a therapeutic treatment.

Additionally, certain invention peptides bind selectively to CD36 with high specificity over other homologous scavenger receptors. Thus, invention peptides can be utilized as a research tool to further evaluate the complex etiology of chronic kidney disease.

5A–37pA, and derivatives thereof, are peptide mimetic of apolipoprotein A–1. These peptides have been described in NIH owned patents and/or patent applications (see, for example, U.S. Patent Nos. 7,572,771 and 8,071,746 and 8,148,323). Use of these peptides, as well as the novel peptides of this invention, for the treatment of kidney diseases is currently available for licensing.

Potential Commercial Applications: Therapeutic; Research Tool.

Competitive Advantages: Selective antagonist of CD36 activity; Specific binding to CD36 over other scavenger receptors.

Development Stage: Early-stage; In vitro data available; In vivo data available (animal).

Inventors: Ana C. Souza (NIDDK), Peter S. Yuen (NIDDK), Robert A. Star (NIDDK), Alexander V. Bocharov (CC), Alan Remaley (NHLBI), Thomas Eggerman (NIDDK).

Intellectual Property: HHS Reference No. E–743–2013/0—U.S. Application No. 61/890,585 filed 14 Oct 2013.

Related Technology: HHS Reference No. E–114–2004/0.

Licensing Contact: Lauren Nguyen-Antczak, Ph.D., J.D.; 301–435–4074; *nguyenantczakla@mail.nih.gov*.

Collaborative Research Opportunity: The National Institute of Diabetes and Digestive and Kidney Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize Treatment of Chronic Kidney Disease with 5A–37pA and Derivatives Thereof. For collaboration opportunities, please contact Marguerite Miller at *marguerite.miller@nih.gov* or 301–496–9003.

Novel Anti-HIV Proteins From Coral Reefs

Description of Technology: The subject invention describes Cnidarins as a novel class of highly potent proteins capable of blocking the HIV virus from penetrating T-cells. Cnidarins were found in a soft coral collected in waters off Australia's northern coast. Cnidarins can block virus fusion/entry but do not block viral attachment. In addition, Cnidarins do not have lectin-like activity and therefore possibly a unique mechanism of action. Thus, Cnidarins may represent important new leads for HIV microbicides or for systemic therapeutics for HIV.

Potential Commercial Applications: Microbicide; Therapeutic; Research tool.

Competitive Advantages: High potency against HIV; Novel chemical composition; Family of related proteins; Unique mechanism of action.

Development Stage: Early-stage; In vitro data available; Prototype.

Inventors: Barry O'Keefe, James McMahon, Koreen Ramessar, Chang-yun Xiong (all of NCI).

Intellectual Property: HHS Reference No. E–295–2012/0—U.S. Provisional Patent Application No. 61/925,347 filed 09 Jan 2014.

Licensing Contact: Sally H. Hu, Ph.D., M.B.A.; 301–435–5606; *hus@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize large-scale recombinant production of cnidarins and evaluation of their broader antiviral activity as well as additional pre-clinical studies. For collaboration opportunities, please contact John D. Hewes, Ph.D. at *hewesj@mail.nih.gov.*

Dated: June 2, 2014.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–13097 Filed 6–5–14; 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(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Cancer Institute Director's Consumer Liaison Group.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Director's Consumer Liaison Group.

Date: June 26, 2014.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: NCI Update, Primer on Immunotherapy, Advocate and Organizational Engagement Working Group Discussion.

Place: National Institutes of Health, Building 31, C-Wing, Rooms 9 & 10, 31 Center Drive, Bethesda, MD 20892 (Teleconference: 1–888–946–9419; Passcode: 9630125)

Contact Person: Amy Bulman, National Cancer Institute, 31 Center Drive, Building 31, Room 10A28, Bethesda, MD 20892, 301–496–9723, *williaam@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/dclg/dclg.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: June 2, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–13098 Filed 6–5–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Clinical Trials and Translational Research Advisory Committee, July 16, 2014, 09:00 a.m. to July 16, 2014, 04:00 p.m., National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on April 18, 2014, 79FR21938.

The meeting is being amended to change the start and end times from 11:00 a.m. to 1:00 p.m. and the mode of the meeting is being changed from face to face to a webinar. Pertinent information related to the meeting is as follows:

Date: Wednesday, July 16, 2014.

Time: 11:00 a.m.–1:00 p.m., ET.

Meeting Number: 730 782 390.

Meeting Password: ctac.

Join the online meeting (webinar/video conference).

Go to: *https://cbiit.webex.com/cbiit/j.php?MTID=m258581e041454e26f5dbaaa63e54f2.* Enter your name and email address. If required, enter the meeting password: ctac, then Click ''Join''. Follow the instructions that appear on your screen. If/when prompted to run a temporary application, click ''Run''. This may be a small window that pops up and allows you to click ''Run''. It may also be a small blue link to ''Run a Temporary Application'' on the WebEx screen. Connect to WebEx audio (phone line).

Once you have joined the meeting, an Audio Conference window will appear with prompts to enter your number.

Important: Provide your number (telephone number of where you are) when you join the meeting to receive a call back. Click ''Call Me'' and the session will call this number. Answer the phone when WebEx calls you, and press (1) to join the meeting (as prompted).

Do NOT put your phone on HOLD. To MUTE your phone; either push: The Mute button on your phone or click ''Mute Me'' in the menu at the top of the screen.

If you disconnect and later reconnect, follow the same procedures above to (1) Join the online meeting and (2) Connect to WebEx audio.

If you are unable to be at a computer for this session or do not have internet access, you may call the following number: 1–240–276–6338 for Audio access ONLY. Please be sure to identify yourself if you are a CTAC Board Member.

Dated: June 2, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–13100 Filed 6–5–14; 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: Center for Scientific Review Special Emphasis Panel, Systems Science and Health in the Behavioral and Social Sciences.

Date: June 30, 2014.

Time: 7:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Tomas Drgon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, 301–435–1017, *tdrgon@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Research Project Grant.

Date: June 30, 2014.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Martha L. Hare, Ph.D., RN, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3154, MSC 7770, Bethesda, MD 20892, (301) 451–8504, *harem@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA AG–14–008: Secondary Analyses of Social and Behavioral Datasets in Aging.

Date: July 2, 2014.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA AG–14–008 Secondary Analyses of Social and Behavioral Datasets in Aging.

Date: July 2, 2014.

Time: 9:00 a.m. to 11:00 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: Karin F. Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3144, MSC 7770, Bethesda, MD 20892, (301) 254–9975, *helmersk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR Panel: Physical Activity and Weight Control Interventions Among Cancer Survivors: Effects on Biomarkers of Prognosis and Survival.

Date: July 2, 2014.

Time: 4:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Denise Wiesch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7770, Bethesda, MD 20892, (301) 437–3478, *wieschd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Societal and Ethical Issues in Research.

Date: July 3, 2014.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lisa Steele, Ph.D., Scientific Review Officer, PSE IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, 301–594–6594, *steeleln@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: June 2, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–13101 Filed 6–5–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0107]

Agency Information Collection Activities: Application of Waiver of Passport and/or Visa

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Application for Waiver of Passport and/or Visa (Form I–193). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before August 5, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Application for Waiver of Passport and/or Visa.

OMB Number: 1651–0107.

Form Number: CBP Form I–193.

Abstract: The data collected on DHS Form I–193, Application for Waiver of Passport and/or Visa, is used by CBP to determine an applicant's identity, alienage, claim to legal status in the United States, and eligibility to enter the United States under 8 CFR 211.1(b)(3) and 212.1(g). This form is a tool used by CBP for aliens requesting to enter the country for a medical or humanitarian emergency, but wishing for CBP to waive the documentary requirements to present a valid passport or visa due to an expired passport, or a lost, stolen, or forgotten passport or permanent resident card, or if there is insufficient time for the alien to obtain a nonimmigrant visa or a passport. The waiver of the documentary requirements and the information collected on DHS Form I–193 is authorized by Section 212(a)(7)(B) of the Immigration and Nationality Act. This form is accessible at *http://forms.cbp.gov/pdf/CBP_Form_i193.pdf.*

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to the information collected on Form I–193.

Type of Review: Extension (without change).

Affected Public: Individuals.

Estimated Number of Respondents: 25,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 4,150.

Dated: June 2, 2014.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2014–13164 Filed 6–5–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–49]

30-Day Notice of Proposed Information Collection: Rural Innovation Fund Evaluation Data Collection

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* July 7, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 21, 2014.

A. Overview of Information Collection

Title of Information Collection: Rural Innovation Fund Evaluation Data Collection.

OMB Approval Number: 2528—New.

Type of Request: New collection.

Form Number: None.

Description of the need for the information and proposed use: This information will be used in the evaluation of the Rural Innovation Fund (RIF) which is the successor program to the Rural Housing and Economic Development (RHED) Program. The RIF provides larger grant amounts and places a greater emphasis on leverage than the RHED. This evaluation aims to determine if these two major differences provide for economies of scale or program sustainability, and what the overall program outcomes and impacts are.

Respondents: Rural nonprofit housing and community development organizations and corporations and federally recognized Indian tribes, state housing finance agencies and state economic development agencies.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
RHED Telephone Interviews	50	1	1	1.5	75	$110	$8,250
Total							

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
RIFHED Telephone Interviews	50	1	1	1.5	76.5	110	8,415
Total							
Site Visits	15	1	1	16	240	278	66,720
Total							

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: May 30, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–13265 Filed 6–5–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5750–N–23]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301)-443–2265 (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AGRICULTURE:

Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202)–720–8873; COE: Mr. Scott Whiteford, Army Corps of Engineers, Real Estate, CEMP–CR, 441 G Street NW., Washington, DC 20314; (202) 761–5542; (These are not toll-free numbers).

Dated: May 29, 2014.

Ann Marie Oliva,

Deputy Assistant Secretary (Acting), for Special Needs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 06/06/2014

Suitable/Available Properties

Building

Georgia

Modular Trailer, 661246B040
RPUID 3357054320
934 College Station Rd.
Athens GA 30605
Landholding Agency: Agriculture
Property Number: 15201420012
Status: Excess
Comments: off-site removal only; 2,688 sq. ft.; lab; 11+ yrs.-old; health & safety microorganism issue; high level of black mold; remediation a must; costly; contact Agriculture for more info.

Idaho

2 Buildings
Lucky Peak Dam & Lake
Boise ID 83716
Landholding Agency: COE
Property Number: 31201420010
Status: Unutilized
Directions: Vault toilet w/roof; vault toilet w/out roof
Comments: off-site removal; no future agency need; less than 250 sq. ft.; contact COE for more information.

Minnesota

S.O. Watershed Lab
200 4th Ave., NW
Cass Lake MN 56633
Landholding Agency: Agriculture
Property Number: 15201420011
Status: Excess
Comments: off-site removal only; 181 sq. ft.; storage/lab; 49+ yrs.-old; fair conditions; needs siding repaired & roof replacement.

Missouri

Restroom Shower House
RR3 Box 3559–D
Piedmont MO 63957
Landholding Agency: COE
Property Number: 31201420009
Status: Underutilized
Comments: off-site removal only; no future agency need; 208 sq. ft.; poor conditions; no roof on shower; contact COE for more information.

[FR Doc. 2014–12857 Filed 6–5–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L12320000 EA0000 LVRDNV130000 LLNVL00000; MO# 4500061864; TAS: 14X1125]

Notice of Temporary Closure of the Ash Springs Recreation Site on Public Lands in Lincoln County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This is to notify the public that a temporary closure is in effect on public lands at the Ash Springs Recreation Site administered by the Bureau of Land Management (BLM) Ely District, Caliente Field Office as authorized under the provisions of the Federal Land Policy and Management Act of 1976 and pursuant to BLM regulations for the protection of persons, property, and public lands and resources.

DATES: This temporary closure is in effect on July 7, 2014, until March 1, 2016.

FOR FURTHER INFORMATION CONTACT: Victoria Barr, Caliente Field Manager, 775–726–8100, email *vbarr@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact Ms. Barr. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question for Ms. Barr. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Ash Springs Recreation Site is located approximately 100 miles north of Las Vegas along U.S. Highway 93 in Pahranagat Valley in Lincoln County. The recreation site is defined by an existing fence and the closed lands are limited to the fenced area. The affected public lands are described as follows:

Mount Diablo Meridian

T. 6 S., R. 61 E. Sec. 6, Lot 8.

The lands described contain 1.18 acres, more or less, in Lincoln County, Nevada.

A temporary closure of the Ash Springs Recreation Site is necessary due to extensive unauthorized modification of a man-made pool and a natural pool by public users that is causing a threat to human safety and degrading habitat for endangered species. During the temporary-closure period, the BLM will work collaboratively with stakeholders to develop a long-term management plan to determine the type and level of use suitable for the area while protecting critical habitat for the endangered White River springfish. In addition to the endangered springfish, Ash Springs provides habitat for three BLM Nevada sensitive species: Pahranagat naucorid bug, Grated tyronia, and Pahranagat pebblesnail.

The BLM analyzed the temporary closure through Environmental Assessment (EA) DOI–BLM–NV–L030–0032–EA. A 15-day public comment period was provided on the EA which only analyzed the action of temporarily closing the public lands of the Ash Spring Recreation Site to public uses. The BLM would analyze any actions for repairing/rehabilitating the site through a separate decision document in compliance with the National Environmental Policy Act incorporating public comments.

This temporary closure order is posted at the BLM Ely District Office, Ely, Nevada, and at the Caliente Field Office, Caliente, Nevada. This temporary closure applies to all members of the public except: (1) BLM personnel for administrative purposes; (2) Emergency and law enforcement personnel and vehicles while being used for emergency or administrative purposes; and (3) Any person authorized in writing by the Ely District Manager or the Caliente Field Manager. If the BLM is unable to negate the risks to public safety and endangered species habitat within the 2-year timeframe, the BLM will consider extending the temporary closure order.

Penalties: Any person who fails to comply with this temporary closure order is subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisonment for not more than 12 months.

Authority: (Authority: 43 CFR 8364.1)

Victoria Barr,

Manager, Caliente Field Office.

[FR Doc. 2014–13180 Filed 6–5–14; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORS04000.L63100000. HD0000.14XL1116AF–LXSS033H0000–252Z–HAG14–0086]

Notice of Seasonal Road Closure for Public Lands in the Pine Crest Area of Clackamas County, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Seasonal Road Closure on Public Lands in Oregon.

SUMMARY: Notice is hereby given that a seasonal road closure is in effect on public lands administered by the Bureau of Land Management (BLM) Salem District in the Pine Crest area, Clackamas County, Oregon. This seasonal closure includes all roads accessible by Pine Crest Road number 6S–3E–30, which includes road numbers 7S–3E–5 and 7S–3E–8.

DATES: This seasonal closure of public motor vehicle access will be in effect annually from January 1 to September 1, or the first day of the local bow hunting season, whichever comes first.

FOR FURTHER INFORMATION CONTACT: John Huston, Cascades Resource Area Field Manager; or Jim England, Wildlife Biologist, BLM Salem District Office, 1717 Fabry Road SE., Salem, OR 97306, telephone 503–375–5646. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual(s). You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This closure affects roads accessed by Pine Crest Road number 6S–3E–30 and includes road numbers 7S–3E–5 and 7S–3E–8 beyond the Pine Crest Bridge in the Molalla River Corridor, Clackamas County, Oregon. The legal description of the affected public lands is: Township 6 South, Range 3 East, W.M., sec. 30, all; sec. 31, all; sec. 32, W1/2W1/2. Township 7 South, Range 3 East, W.M., sec. 1, Lots 2 to 6, inclusive, S1/2NE1/4, S1/2NW1/4, SW1/4, N1/2SE1/4; sec. 2, all; sec. 5, all; sec. 6, all; sec. 8, Lot 1, NE1/4NE1/4; sec. 9, all; sec. 10, all; sec. 11, Lots 1 to 9, inclusive, NW1/4—containing 5,593 acres, more or less.

The road closure in the area described above is necessary to prevent resource damage, wildlife disturbance, potential for fire start and threats to public safety while allowing access for fall hunting season. The BLM will post closure signs at main entry points to this area. This closure order will be posted at the BLM Salem District Office, 1717 Fabry Road SE., Salem, OR 97306, and be available by contacting the BLM Salem District at *salem_mail@blm.gov.*

Maps of the affected area, the Environmental Assessment (number DOI–BLM–OR–S040–2010–0003), the Molalla River—Table Rock Recreation Area Management Plan and Decision Record, and other documents associated with this closure are available on the BLM Salem District Web site at *http://www.blm.gov/or/districts/salem/plans/molalla/index.php.*

Under the authority of Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), 43 CFR 8360.0–7, and 43 CFR 8364.1, the BLM will enforce the following rule(s) within Pine Crest area:

No motorized vehicles are allowed in the closed area.

The following persons are exempt from this order: Federal, state, and local officers and employees in the performance of their official duties; private landowners with access rights; members of organized rescue or fire-fighting forces in the performance of their official duties; and persons with permits or written authorization from the BLM. Any person who violates the above rule(s) and/or restriction(s) may be tried before a United States Magistrate and fined no more than $1,000, imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Roy Price,

Acting Salem District Manager.

[FR Doc. 2014–13172 Filed 6–5–14; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–833]

Certain Digital Models, Digital Data, and Treatment Plans for Use in Making Incremental Dental Positioning Adjustment Appliances, the Appliances Made Therefrom, and Methods of Making the Same; Notice of Commission Grant of Motion To Stay Cease and Desist Orders Pending Appeal

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued an order and opinion granting Respondents' motion for a stay of the cease and desist orders pending appeal of the above-captioned investigation under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''Section 337'').

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2532. 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: This investigation was instituted on April 5, 2012, based upon a complaint filed on behalf of Align Technology, Inc., of San Jose, California (''Align''), on March 1, 2012, as corrected on March 22, 2012. 77 FR 20648 (April 5, 2012). The complaint alleged violations of Section 337 in the sale for importation, importation, or sale within the United States after importation of certain digital models, digital data, and treatment plans for use in making incremental dental positioning adjustment appliances, the appliances made therefrom, and methods of making the same by reason of infringement of certain claims of U.S. Patent No. 6,217,325 (''the '325 patent''); U.S. Patent No. 6,471,511 (''the '511 patent''); U.S. Patent No. 6,626,666 (''the '666 patent''); U.S. Patent No. 6,705,863 (''the '863 patent''); U.S. Patent No. 6,722,880 (''the '880 patent''); U.S. Patent No. 7,134,874 (''the '874 patent''); and U.S. Patent No. 8,070,487 (the '487 patent''). The notice of institution named as respondents ClearCorrect Pakistan (Private), Ltd. of Lahore, Pakistan (''CCPK'') and ClearCorrect Operating, LLC of Houston, Texas (''CCUS'') (collectively, ''the Respondents''). A Commission investigative attorney (''IA'') participated in the investigation.

On May 6, 2013, the presiding administrative law judge (''ALJ'') issued the final initial determination (''ID''), finding a violation of Section 337 with respect to the '325 patent, the '880 patent, the '487 patent, the '511 patent, the '863 patent, and the '874 patent. He found no violation as to the '666 patent. The ALJ recommended the issuance of cease and desist orders directed to the Respondents.

On May 20, 2013, each of the parties filed a petition for review. On May 28, 2013, each of the parties filed a response thereto. On June 7, 2013, the Commission issued notice of its

determination to extend the deadline for determining whether to review the final ID to July 25, 2013. On July 25, 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 46611 (August 1, 2013).

After receiving briefing from the parties and the public, on April 3, 2014, the Commission issued notice of its determination to affirm-in-part, modify-in-part, and reverse-in-part the final ID and to find a violation of Section 337. 79 FR 19640–41 (Apr. 9, 2014). The Commission found a violation of Section 337 with respect to (i) claims 1 and 4–8 of the '863 patent; (ii) claims 1, 3, 7, and 9 of the '666 patent; (iii) claims 1, 3, and 5 of the '487 patent; (iv) claims 21, 30, 31 and 32 of the '325 patent; and (v) claim 1 of the '880 patent. On the same day, the Commission issued an opinion, with a dissenting opinion from Commissioner Johanson, and the Commission issued cease and desist orders directed to CCUS and CCPK. The Commission terminated the investigation.

On May 2, 2014, the Respondents filed a motion to stay the cease and desist orders pending appeal. On May 14, 2014, Complainant Align and the IA filed responses in opposition.

Upon consideration of the motion and the responses, the cease and desist orders, and the relevant portions of the record, the Commission has granted the motion for a stay of the cease and desist orders pending appeal of this investigation.

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: June 2, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–13175 Filed 6–5–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1143 (Review)]

Small Diameter Graphite Electrodes From China

Determination

On the basis of the record [1] developed in the subject five-year review, 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 antidumping duty order on small diameter graphite electrodes 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.[2]

Background

The Commission instituted this review on January 2, 2014 (79 FR 145) and determined on April 7, 2014 that it would conduct an expedited review (79 FR 22531, April 22, 2014). The Commission completed and filed its determination in this review on June 2, 2014. The views of the Commission are contained in USITC Publication 4469, June 2014, entitled *Small Diameter Graphite Electrodes from China (Inv. No. 731–TA–1143 (Review)).*

By order of the Commission.

Issued: June 3, 2014

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–13174 Filed 6–5–14; 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)).

[2] Commissioner Rhonda K. Schmidtlein not participating.

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (BJA) Docket No. 1661]

Meeting of the Public Safety Officer Medal of Valor Review Board

AGENCY: Bureau of Justice Assistance (BJA), DOJ.

ACTION: Notice of meeting

SUMMARY: This is an announcement of a meeting (via conference call-in only) of the Public Safety Officer Medal of Valor Review Board to consider a range of issues of importance to the Board, to include but not limited to: membership/terms; applicant eligibility; the pending MOV joint ceremony; the 2013–2014 application submissions and review; outreach efforts; and to vote of the position of Board Chairperson. The meeting/conference call date and time is listed below.

DATES: June 26, 2014, 3:00 p.m. to 4:00 p.m. EDT.

ADDRESSES: This will be a virtual meeting which will take place via video conference and/or conference call. The video conference and/or conference call will be made available and open to the public at the offices of the Bureau of Justice Assistance, Office of Justice Programs; 810 7th Street NW., Washington, DC. Advance registration is required, see below for details.

FOR FURTHER INFORMATION CONTACT: Gregory Joy, Policy Advisor, Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street NW., Washington, DC 20531, by telephone at (202) 514–1369, toll free (866) 859–2687, or by email at *Gregory.joy@usdoj.gov.*

SUPPLEMENTARY INFORMATION: The Public Safety Officer Medal of Valor Review Board carries out those advisory functions specified in 42 U.S.C. 15202. Pursuant to 42 U.S.C. 15201, the President of the United States is authorized to award the Public Safety Officer Medal of Valor, the highest national award for valor by a public safety officer.

The purpose of this meeting/conference call is to consider a range of issues of importance to the Board, to include but not limited to: membership/terms; applicant eligibility; the pending MOV joint ceremony; the 2013–2014 application submissions and review; outreach efforts; and to vote of the position of Board Chairperson.

This meeting/conference call is open to the public at the offices of the Bureau of Justice Assistance. For security purposes, members of the public who wish to participate must register at least seven (7) days in advance of the meeting/conference call by contacting Mr. Joy. All interested participants will be required to meet at the Bureau of Justice Assistance, Office of Justice Programs; 810 7th Street NW., Washington, DC and will be required to sign in at the front desk. Note: Photo identification will be required for admission. Additional identification documents may be required.

Access to the meeting/conference call will not be allowed without prior registration. Anyone requiring special accommodations should contact Mr. Joy at least seven (7) days in advance of the meeting. Please submit any comments or written statements for consideration

by the Review Board in writing at least seven (7) days in advance of the meeting date.

Gregory Joy,

Policy Advisor/Designated Federal Officer, Bureau of Justice Assistance.

[FR Doc. 2014–13234 Filed 6–5–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Comment Request; Department of Labor Events Registration Platform

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning the information collection request (ICR) titled, ''Department of Labor Events Registration Platform.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*

DATES: Consideration will be given to all written comments received by August 5, 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 by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Information Management 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 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

This ICR pertains to the Department of Labor Events Registration Platform. More specifically, the DOL periodically requests the public to register to attend a DOL sponsored event. The Department of Labor Events Management Platform is a shared service that allows a DOL agency to collect registration information in a way that can be tailored to a particular event. As the information needed to register for specific events may vary, this ICR provides a generic format to obtain any required PRA authorization from the OMB. The DOL notes that registration requirements for many events do not require PRA clearance, because the information requested is minimal (e.g., information necessary to identify the attendee, address, etc.).

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 1290–0002.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1290–0002.

Submitted comments will also be a matter of public record for this ICR and posted on the Internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL 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.

Title of Collection: Department of Labor Events Registration Platform.

OMB Control Number: 1290–0002.

Affected Public: State, Local, and Tribal Governments; Individuals or Households; and Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

Estimated Number of Respondents: 15,000.

Total Estimated Annual Responses: 15,000.

Estimated Average Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 2,500 hours.

Total Estimated Annual Other Cost Burden: $0.

Dated: June 2, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–13186 Filed 6–5–14; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Current Population Survey Volunteer Supplement

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) titled, ''Current Population Survey Volunteer Supplement,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995

(PRA), 44 U.S.C. 3501 et seq. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 7, 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=201402-1220-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, 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 extend PRA authority for the Current Population Survey (CPS) Volunteer Supplement information collection, which provides information on the total number of individuals in the United States involved in unpaid volunteer activities, the frequency and intensity with which individuals volunteer, types of organizations for which they volunteer, the activities in which volunteers participate, and the prevalence of volunteering more than 120 miles from home or volunteering abroad. The Supplement also provides information on civic engagement and charitable donations. This information collection is authorized by 29 U.S.C. 2.

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 1220–0176.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on August 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 February 24, 2014.

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 1220–0176. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–BLS.

Title of Collection: Current Population Survey Volunteer Supplement.

OMB Control Number: 1220–0176.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 63,000.

Total Estimated Number of Responses: 106,000.

Total Estimated Annual Time Burden: 5,300 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: June 2, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–13169 Filed 6–5–14; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employee Retirement Income Security Act Prohibited Transaction Class Exemption 1981–8, Investment of Plan Assets in Certain Types of Short-Term Investments

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Employee Retirement Income Security Act Prohibited Transaction Class Exemption 1981–8, Investment of Plan Assets in Certain Types of Short-Term Investments,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 7, 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=201403-1210-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, 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 extend PRA authority for the information collection requirements contained in Employee Retirement Income Security Act (ERISA) Prohibited Transaction Class Exemption (PTE) 1981–8, Investment of Plan Assets in Certain Types of Short-Term Investments, which permits the investment of ERISA covered plan assets that involve the purchase or other acquisition, holding, sale, exchange, or redemption by or on behalf of an employee benefit plan of certain types of short-term investments. The PTE requires two basic disclosure requirements. Both affect only the portion of the exemption dealing with repurchase agreements. The first requirement calls for the repurchase agreements between the seller and the plan to be in writing. The repurchase agreements have a duration of one year or less and may be in the form of a blanket agreement that covers the transactions for the year. The written agreement is intended to put the plan on notice of possible fees associated with the redemption of open-end mutual fund shares. The second requirement obliges the seller of such repurchase agreements to provide the most recent financial statements to the plan at the time of the sale and as the statements are issued. The seller must also represent, either in the repurchase agreement or prior to each repurchase agreement transaction, that, as of the time the transaction is negotiated, there has been no material adverse change in the seller's financial condition since the date the most recent financial statement was furnished that has not been disclosed to the plan fiduciary with whom the written agreement is made. The Internal Revenue Code of 1986 and ERISA authorize the information collection activities. *See* 26 U.S.C. 4975(c) and 29 U.S.C. 1108.

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 1210–0061.

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 June 30, 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 November 29, 2013 (78 FR 71668).

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 1210–0061. 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–EBSA.

Title of Collection: Employee Retirement Income Security Act Prohibited Transaction Class Exemption 1981–8, Investment of Plan Assets in Certain Types of Short-Term Investments.

OMB Control Number: 1210–0062.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 65,000.

Total Estimated Number of Responses: 325,000.

Total Estimated Annual Time Burden: 81,000 hours.

Total Estimated Annual Other Costs Burden: $99,000.

Dated: June 2, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–13166 Filed 6–5–14; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Consumer Price Index Commodities and Services Survey

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) titled, ''Consumer Price Index Commodities and Services Survey,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 7, 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=201402-1220-003*

(this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, 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: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Consumer Price Index (CPI) Commodities and Services Survey information collection. The CPI is a measure of the average change over time in the prices paid by consumers for a market basket of consumer goods and services. Each month, BLS data collectors called economic assistants visit or call thousands of retail stores, service establishments, rental units, and doctors' offices all over the United States to obtain information on the prices of the thousands of items used to track and measure price changes in the CPI. The collection of price data from retail establishments is essential for the timely and accurate calculation of the commodities and services component of the CPI. The CPI is then widely used as a measure of inflation, indicator of the effectiveness of government economic policy, deflator for other economic series, and as a means of adjusting dollar values. This information collection is authorized by 29 U.S.C. 2.

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 1220–0039.

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 July 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 February 18, 2014 (79 FR 9281).

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 1220–0039. 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–BLS.

Title of Collection: Consumer Price Index Commodities and Services Survey.

OMB Control Number: 1220–0039.

Affected Public: State, Local, and Tribal Governments; and Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 48,853.

Total Estimated Number of Responses: 328,221.

Total Estimated Annual Time Burden: 116,977 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: June 2, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–13121 Filed 6–5–14; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Advisory Council on Employee Welfare and Pension Benefit Plans, Nominations for Vacancies

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an Advisory Council on Employee Welfare and Pension Benefit Plans (the Council), which is to consist of 15 members to be appointed by the Secretary of Labor (the Secretary) as follows: Three representatives of employee organizations (at least one of whom shall be a representative of an organization whose members are participants in a multiemployer plan); three representatives of employers (at least one of whom shall be a representative of employers maintaining or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). No more than eight members of the Council shall be members of the same political party.

Council members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years. The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his or her functions under ERISA, and to submit to the Secretary, or his or her designee, recommendations with respect thereto. The Council will meet at least four times each year.

The terms of five members of the Council expire at the end of this year.

The groups or fields they represent are as follows: (1) Employee organizations; (2) employers; (3) investment management; (4) corporate trust; and (5) the general public. The Department of Labor is committed to equal opportunity in the workplace and seeks a broad-based and diverse Council.

Accordingly, notice is hereby given that any person or organization desiring to nominate one or more individuals for appointment to the Advisory Council on Employee Welfare and Pension Benefit Plans to represent any of the groups or fields specified in the preceding paragraph may submit nominations to Larry Good, Council Executive Secretary, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW., Suite N–5623, Washington, DC 20210, or as email attachments to *good.larry@dol.gov.* Nominations (including supporting nominations) must be received on or before August 1, 2014. Please allow three weeks for regular mail delivery to the Department of Labor. If sending electronically, please use an attachment in rich text, Word, or pdf format. Nominations may be in the form of a letter, resolution or petition, signed by the person making the nomination or, in the case of a nomination by an organization, by an authorized representative of the organization.

Nominations, including supporting letters, should:

- State the person's qualifications to serve on the Council.
- State that the candidate will accept appointment to the Council if offered.
- Include which of the five positions (representing groups or fields) the candidate is nominated to fill.
- Include the nominee's full name, work affiliation, mailing address, phone number, and email address.
- Include the nominator's full name, mailing address, phone number, and email address.
- Include the nominator's signature, whether sent by email or otherwise.

Please do not include any information that you do not want publicly disclosed.

In selecting Council members, the Secretary of Labor will consider individuals nominated in response to this **Federal Register** notice, as well as other qualified individuals.

Nominees will be contacted to provide information on their political affiliation and their status as registered lobbyists. Anyone currently subject to federal registration requirements as a lobbyist is not eligible for appointment. Nominees should be aware of the time commitment for attending meetings and actively participating in the work of the Council. Historically, this has meant a commitment of 15–20 days per year.

Signed at Washington, DC this 29th day of May 2014.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2014–13113 Filed 6–5–14; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,571; TA–W–82,571A]

LexisNexis/Matthew Bender, a Reed Elsevier, INC. Subsidiary Not Including the Customer Service and Fulfillment Departments, Albany, New York; Lexisnexis, Customer Support and Fulfillment Departments, Miamisburg, Ohio; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 8, 2013, applicable to workers and former workers of LexisNexis/Matthew Bender, a Reed Elsevier, Inc. Subsidiary, not including the Customer Service and Fulfillment Departments, Albany, New York. The subject workers are engaged in activities related to the supply of research tools and solutions services.

The subject firm confirmed that LexisNexis, Customer Support and Fulfillment Departments, Miamisburg, Ohio (TA–W–82,571A) is part of the subject worker group; the subject workers are engaged in activities related to the supply of research tools and solutions services; and the subject workers are affected by the acquisition of services from a foreign country. Workers covered by TA–W–82,571A are eligible to apply for Trade Adjustment Assistance under TA–W–81,638 (certification expires on June 1, 2014).

The amended notice applicable to TA–W–82,571 is hereby issued as follows:

''All workers of LexisNexis/Matthew Bender, a Reed Elsevier, Inc. Subsidiary, not including the Customer Service and Fulfillment Departments, Albany, New York (TA–W–82,571) who became totally or partially separated from employment on or after March 18, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through May 8, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended; and all workers of LexisNexis, Customer Support and Fulfillment, Miamisburg, Ohio (TA–W–82,571A) who became totally or partially separated from employment on or after June 2, 2014, and all workers in the group threatened with total or partial separation from employment on date of certification through May 8, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974.''

Signed in Washington, DC this 23rd day of May, 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–13187 Filed 6–5–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–83,227; TA–W–83,227A; TA–W–83,227B]

Avery Products, a Publicly Reportable Operating Segment of CCL Industries, Inc. Including On-Site Leased Workers From United Personnel, Zero Chaos, Integration International, and Manpower Chicopee, Massachusetts; Avery Products, a Publicly Reportable Operating Segment of CCL Industries, Inc. Including On-Site Leased Workers From Robert Half Holliston, Massachusetts; Avery Products, Including On-Site Leased Workers From Workforce Logic, Adecco, Hewlett Packard, Insight Global, Manpower, Trithian, Zero Chaos, and Procure Staff Brea, California; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 17, 2013, applicable to workers and former workers of Avery Products, a publicly reporting operating segment of CCL Industries, Inc., including on-site leased workers from United Personnel, Zero Chaos, Integration International, and Manpower, Chicopee, Massachusetts (TA–W–83,227) and Avery Products, a publicly reporting operating segment of CCL Industries, Inc., including on-site leased workers from Robert Half Holliston, Massachusetts (TA–W–83,227A). The subject workers are engaged in activities related to the supply of office products (binders,

labels, dividers, writing instruments, etc.)

The subject firm confirmed that Avery Products, including on-site leased workers from Workforce Logic, Adecco, Hewlett Packard, Insight Global, Manpower, Trithian, Zero Chaos, and Procure Staff, Brea, California (TA–W–83,227B) is part of the subject worker group; the subject workers are engaged in activities related to the supply of support services to the Holliston and Chicopee facilities; and the subject workers are affected by the shift in production to a foreign country.

The amended notice applicable to TA–W–83,227 is hereby issued as follows:

''All workers of Avery Products, a publicly reporting operating segment of CCL Industries, Inc., including on-site leased workers from United Personnel, Zero Chaos, Integration International, and Manpower, Chicopee, Massachusetts (TA–W–83,227), Avery Products, a publicly reporting operating segment of CCL Industries, Inc., including on-site leased workers from Robert Half Holliston, Massachusetts (TA–W–83,227A), and Avery Products, including on-site leased workers from Workforce Logic, Adecco, Hewlett Packard, Insight Global, Manpower, Trithian, Zero Chaos, and Procure Staff, Brea, California (TA–W–83,227B) who became totally or partially separated from employment on or after November 19, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through December 17, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.''

Signed in Washington, DC this 28th day of May, 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–13188 Filed 6–5–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,104]

Fisher and Ludlow, a Nucor Company Saegertown, Pennsylvania; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated May 2, 2014, a representative of United Steelworkers, District 10, requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) applicable to workers and former workers of Fisher and Ludlow, a Nucor Company, Saegertown, Pennsylvania. The determination was issued on April 8, 2014 and the Department's Notice of determination was published in the **Federal Register** on April 29, 2014 (79 FR 24018).

The group eligibility requirements for workers of a firm under Section 246 (a)(3)(A)(ii) of the Trade Act are satisfied if the following criteria are met:

(I) Whether a significant number of workers in the workers' firm are 50 years of age or older;

(II) Whether the workers in the workers' firm possess skills that are not easily transferable; and

(III) The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

The negative determination for ATAA was based on the Department's findings that Section 246(a)(3)(A)(ii)(II) was not been met because the workers in the workers' firm possess skills that are easily transferrable and Section 246(a)(3)(A)(ii)(III) was not been met because conditions within the workers' industry are not adverse.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The request for reconsideration asserts that the workers in the workers' firm possess skills that are not easily transferrable and that conditions within the workers' industry are adverse. The request provides facts not previously considered to support the assertions.

The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 28th day of May, 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–13190 Filed 6–5–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–83,298]

Vantiv, LLC; A Wholly-Owned Subsidiary of Vantiv Holding, LLC; Vantiv, Inc.; Including Workers Who Wages Were Reported Under Fifth Third Processing Solutions, LLC; Including On-Site Leased Workers From Adecco, Aerotek, Ascendum, Callibrity Solutions, LLC, Cardinal Solutions, Centric, Cincinnati Bell Technology, Cohesion, Exeris, Footbridge, Illumination Works, Ingage Partners, LLC, Kalvin Consulting, K-Force, Lakeshore, Lucrum, Mainline Information Systems, Inc., Manpower, Mergis Group, Messina, Midwest Financial Staffing, Modis, Partner Technology, Pomeroy, Precision Staffing Services, LLC, Prosoft Technology Group, Resources Global Professionals, Robert Half International, Sei, Sogeti USA, Staffmark, Superior Search & Staffing, Systems Insight, TEKSystems, Triple E Partners and Vendor Pass Symmes Township, Ohio; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 3, 2014, applicable to workers of Vantiv, LLC, a wholly owned subsidiary of Vantiv Holding, LLC, Vantiv, Inc., including on-site leased workers from Adecco, Aerotek, Asendum, Callibrity Solutions, LLC, Cardinal Solutions, Centric, Cincinnati Bell Technology, Cohesion, Experis, Footbridge, Illumination Works, Ingage Partner, LLC, Kalvin Consulting, K-Force, Lakeshore, Lucrum, Mainline Information Systems, Inc., Manpower, Mergis Group, Messina, Midwest Financial Staffing, Modis, Partner Technology, Pomeroy, Precision Staffing Services, LLC, Prosoft Technology, Resources Global Professionals, Robert Half International, SEI, Sogeti USA, Staffmark, Superior Search & Staffing, TEKSystems, Triple E

Partners, and Vendor Pass, Symmes Township, Ohio.

At the request of a state workforce official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities related to the supply of financial transaction processing.

New information shows that some workers separated from employment at the subject firm had their wages reported under the former subject firm name, Fifth Third Processing Solutions, LLC.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in services to a foreign country.

The amended notice applicable to TA–W–83,298 is hereby issued as follows:

''All workers of Vantiv, LLC, a wholly owned subsidiary of Vantiv Holding, LLC, Vantiv, Inc., including workers whose wages were reported under Fifth Third Processing Solutions, LLC, including on-site leased workers from Adecco, Aerotek, Asendum, Callibrity Solutions, LLC, Cardinal Solutions, Centric, Cincinnati Bell Technology, Cohesion, Experis, Footbridge, Illumination Works, Ingage Partner, LLC, Kalvin Consulting, K-Force, Lakeshore, Lucrum, Mainline Information Systems, Inc., Manpower, Mergis Group, Messina, Midwest Financial Staffing, Modis, Partner Technology, Pomeroy, Precision Staffing Services, LLC, Prosoft Technology, Resources Global Professionals, Robert Half International, SEI, Sogeti USA, Staffmark, Superior Search & Staffing, TEKSystems, Triple E Partners, and Vendor Pass, Symmes Township, Ohio, who became totally or partially separated from who became totally or partially separated from employment on or after December 16, 2012 through February 3, 2016, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.''

Signed at Washington, DC this 23rd day of May, 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–13189 Filed 6–5–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *May 19, 2014 through May 23, 2014.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact

date for all workers of such determination.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

85,053, Strippit, Inc. Akron, New York. January 24, 2014.
85,079, Sierrapine, Ltd., Springfield, Oregon. February 18, 2013.
85,108, Ameron International, Etiwanda, California. February 28, 2013.
85,133, Weyerhaeuser Technology Center, Boise, Idaho. March 10, 2013.
85,134, Weyerhaeuser, Federal Way, Washington. March 10, 2013.
85,149, Sappi Fine Paper, Allentown, Pennsylvania. March 13, 2013.
85,170, Graham Packaging Company L.P. Berkeley, Missouri. March 15, 2013.
85,189, M/A–COM Technology Solutions, Inc., Long Beach, California. July 9, 2013.
85,225, Cycling Sports Group, Inc., Bedford, Pennsylvania. April 11, 2013.
85,238, Manitowoc FSG Operations, LLC., Manitowoc, Wisconsin. April 11, 2013.
85,272, CES Group, LLC DBA Mammoth, Inc., Holland, Michigan. April 28, 2013.
85,283, MTD Southwest, Inc., Tempe, Arizona. May 2, 2013.
85,298, 3M Purification, Inc., Enfield, Connecticut. May 8, 2013.
85,305, Honeywell International, Poway, California. May 2, 2013.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

85,108A, Ameron International, Fontana, California. February 28, 2013.
85,240, Quickparts.com, Lawrenceburg, Tennessee. April 15, 2014.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

85,222, Air System Components, Inc., Ponca City, Oklahoma.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

85,208, Lockheed Martin Ship and Air Services, Akron, Ohio.
85,121, Roseburg Forest Products Company, Riddle, Oregon.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

85,155, DMI Edon, LLC., Edon, Ohio.
85,264, Cloud Cap Technology, Inc., Hood River, Oregon.
85,035, Hewlett Packard Company, Ft. Collins, Colorado.
85,035A Hewlett Packard Company, Ft. Collins, Colorado.
85,035B, Hewlett Packard Company, Ft. Collins, Colorado.
85,035C, Hewlett Packard Company, Boise, Idaho.
85,115, Hoax Films, LLC., Los Angeles, California.
85,153, Staples Inc., Framingham, Massachusetts.
85,232, Dex Media, Inc., Erie, Pennsylvania.
85,237, Hyundia Regional Customer Service Center, Charlotte, North Carolina.
85,247, MoneyGram Payment Systems Inc., Brooklyn Center, Minnesota.
85,250, Dell Marketing L.P. and Dell USA LP, Round Rock, Texas.
85,251, Hewlett Packard Company, Boise, Idaho.
85,251A, Hewlett Packard Company, Boise, Idaho.
85,251B, Hewlett Packard Company, Boise, Idaho.
85,254, Sony Electronics, Inc., Carson, California.
85,254A, Sony Electronics, Inc., Los Angeles, California.
85,254B, Sony Electronics, Inc., Los Angeles, California.
85,254C, Sony Electronics, Inc., San Diego, California.
85,254D, Sony Electronics, Inc., San Jose, California.
85,254E, Sony Electronics, Inc., Fort Myers, Florida.
85,254F, Sony Electronics, Inc., Honolulu, Hawaii.
85,254G, Sony Electronics, Inc., Itasca, Illinois.
85,254H, Sony Electronics, Inc., Bloomington, Minnesota.
85,254I, Sony Electronics, Inc., Park Ridge, New Jersey.
85,254J, Sony Electronics, Inc., Laredo, Texas.
85,254K, Sony Electronics, Inc., Laredo, Texas.
85,254J, Sony Electronics, Inc., Laredo, Texas.
85,254M, Sony Electronics, Inc., Middleton, Wisconsin.
85,269, International Flight Training Academy Inc., Bakersfield, California.
85,277, Aegis Media Americas, Boston, Massachusetts.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued in cases where these petitions were not filed in accordance with the requirements of 29 CFR 90.11. Every petition filed by workers must be signed by at least three individuals of the petitioning worker group. Petitioners separated more than one year prior to the date of the petition cannot be covered under a certification of a petition under Section 223(b), and therefore, may not be part of a petitioning worker group. For one or more of these reasons, these petitions were deemed invalid.

85,252, YP, LLC., Saint Louis, Missouri.
85,252A, YP, LLC., Southfield, Michigan.

I hereby certify that the aforementioned determinations were issued during the period of *May 19, 2014 through May 23, 2014.* These determinations are available on the Department's Web site *www.doleta.gov/*

tradeact/taa/taa_search_form.cfm under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 29th day of May 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–13192 Filed 6–5–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 16, 2014.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 16, 2014.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 29th day of May 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[21 TAA Petitions instituted between 5/19/14 and 5/23/14]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85313	Supertex, Inc. (Company)	Sunnyvale, CA	05/19/14	05/16/14
85314	Caraco Pharmaceutical Laboratories (Union).	Detroit, MI	05/19/14	05/16/14
85315	Souriau USA, Inc. (Company)	York, PA	05/19/14	05/16/14
85316	Honeywell (Union)	Cincinnati, OH	05/19/14	05/16/14
85317	Child Care Services/Boaz Eagle Corps Investments (Company).	Courtland, MS	05/20/14	05/19/14
85318	EPIC Technologies, LLC (Company).	Norwalk, OH	05/20/14	05/19/14
85319	Maersk Agency USA Inc. (Company).	Madison, NJ	05/20/14	05/19/14
85320	Teconnectivity/Tyco Electronics (State/One-Stop).	Wilsonville, OR	05/20/14	05/19/14
85321	JP Morgan Chase (Workers)	Florence, SC	05/20/14	05/19/14
85322	Athena Health (Workers)	Birmingham, AL	05/21/14	05/19/14
85323	Aviat Networks (Company)	Santa Clara, CA	05/21/14	05/20/14
85324	ConAgra Foods (Workers)	Kentwood, MI	05/21/14	05/20/14
85325	Chrysler Group, LLC (Quality Engineering Center) (State/One-Stop).	Auburn Hills, MI	05/21/14	05/20/14
85326	Media News/Bay Area Newsgroup (Workers).	Walnut Creek, CA	05/21/14	05/09/14
85327	Eaton Interconnect (Company)	Chelsea, MA	05/22/14	05/21/14
85328	Chromcraft Revington, Inc (Company).	Senatobia, MS	05/22/14	05/21/14
85329	Caterpillar Inc. (Company)	Fountain Inn, SC	05/23/14	05/22/14
85330	Wiley X (State/One-Stop)	Livermore, CA	05/23/14	05/22/14
85331	Music Group Services Nevada (Workers).	Las Vegas, NV	05/23/14	05/22/14
85332	Stromgren Athletics Inc. (Company).	Hays, KS	05/23/14	05/22/14
85333	IQE (Workers)	Greensboro, NC	05/23/14	05/15/14

[FR Doc. 2014–13191 Filed 6–5–14; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (14–045)]

NASA Advisory Council; Human Exploration and Operations Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Human Exploration and Operations Committee (HEOC) of the NASA Advisory Council (NAC). This Committee reports to the NAC.

DATES: Monday, June 23, 2014, 10:30 a.m. to 12:00 Noon, and 2:00 to 5:00 p.m. Local Time.

ADDRESSES: NASA Headquarters, Room MIC 5A (5H42–A), 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Bette Siegel, Human Exploration and Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2245, or *bette.siegel@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. Any interested person may call the USA toll free conference call number (888) 323–3509 or toll number (630) 395–0439, pass code 2799942, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/*, the meeting number is 991 158 921, and the password is June23@HQ. The agenda for the meeting includes the following topics:

—Evolving Mars Missions and Trade Space

—Exploration Strategy and Overview

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Dr. Bette Siegel via email at *bette.siegel@nasa.gov* or by fax at (202) 358–2885. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Dr. Bette Siegel. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2014–13185 Filed 6–5–14; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0113]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to comment, request a hearing, and petition for leave to intervene; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of three amendment requests. The amendment requests are for Arkansas Nuclear One, Units 1 and 2; Nine Mile Point Nuclear Station, Unit 2; and Wolf Creek Generating Station. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration. In addition, each amendment request contains sensitive unclassified non-safeguards information (SUNSI).

DATES: Comments must be filed by July 7, 2014. A request for a hearing must be filed by August 5, 2014. Any potential party as defined in § 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by June 16, 2014.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0113. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Janet Burkhardt, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1384, email: *Janet.Burkhardt@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2014–0113 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0113.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0113 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/

petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are

requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*.

Entergy Operations, Inc., Docket Nos. 50–313 and 50–368, Arkansas Nuclear One, Units 1 and 2, Pope County, Arkansas

Date of amendment request: December 17, 2013. A publicly-available version is in ADAMS under Accession No. ML13357A749.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise the Arkansas Nuclear One, Units 1 and 2, Cyber Security Plan (CSP) Milestone 8 full implementation date as set forth in the Cyber Security Plan Implementation Schedule.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the CSP Implementation Schedule is administrative in nature and does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the CSP Implementation Schedule is administrative in nature and does not create the possibility of a new or different kind of accident from any accident previously evaluated. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to the CSP Implementation Schedule is administrative in nature and does not involve a significant reduction in a margin of safety. Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications and no modifications have been made to these plant characteristics due to the proposed change. In addition, the milestone date delay for full implementation of the CSP has no substantive impact because other measures have been taken which provide adequate protection during this period of time.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, LA 70113.

NRC Branch Chief: Michael T. Markley.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2 (NMP2), Oswego County, New York

Date of amendment request: November 1, 2013. A publicly-available version is in ADAMS under Accession Nos. ML13316B107, ML13316B109, and ML13316B110.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment includes changes to the NMP2 Technical Specifications (TSs) necessary to: (1) Implement the Maximum Extended Load Line Limit Analysis Plus (MELLLA+) expanded operating domain; (2) change the stability solution to Detect and Suppress Solution—Confirmation Density (DSS–CD); (3) use the TRACG04 analysis code; (4) increase the isotopic enrichment of boron-10 in the sodium pentaborate solution utilized in the Standby Liquid Control System (SLS); and (5) increase the Safety Limit Minimum Critical Power Ratio (SLMCPR) for two recirculation loops in operation.

The following is a list of the proposed changes to the NMP2 TSs:

- Revise Safety Limit (SL) 2.1.1.2 by increasing the SLMCPR for two recirculation loops in operation from ≥1.07 to ≥1.09.
- Revise the acceptance criterion in TS 3.1.7, ''Standby Liquid Control (SLC) System,'' Surveillance Requirement (SR) 3.1.7.7 by increasing the discharge pressure from ≥1,327 pounds per square inch gauge (psig) to ≥1,335 psig.
- Revise the acceptance criterion in TS SR 3.1.7.10 by increasing the sodium pentaborate boron-10 enrichment requirement from ≥25 atom percent to ≥92 atom percent, and make a corresponding change in TS Figure 3.1.7–1, ''Sodium Pentaborate Solution Volume/Concentration Requirements.''
- Revise TS Figure 3.1.7–1 to account for the decrease in the minimum volume of the SLS tank from 4,558.6 gallons and 4,288 gallons at sodium pentaborate concentrations of 13.6% and 14.4%, respectively, to 1,600 gallons and 1,530 gallons at sodium pentaborate concentrations of 13.6% and 14.4%, respectively.
- Change the Required Actions for Condition F of TS 3.3.1.1, ''Reactor Protection System (RPS) Instrumentation.''
- Change Condition G of TS 3.3.1.1.

• Add new Conditions J and K to TS 3.3.1.1.

• Correct an editorial error in Note 3 to TS SR 3.3.1.1.13 (i.e., ''ORRM'' is changed to ''OPRM'' [Oscillation Power Range Monitor]).

• Eliminate TS SR 3.3.1.1.16 and references to it in TS Table 3.3.1.1–1, ''Reactor Protection System Instrumentation.''

• Change the allowable value (AV) for TS Table 3.3.1.1–1, Function 2.b, Average Power Range Monitor (APRM)—Flow Biased Simulated Thermal Power (STP)—Upscale from ''≤0.55W + 60.5% [Rated Thermal Power] RTP and ≤115.5% RTP'' to ''≤0.61W + 63.4% RTP and ≤115.5% RTP.''

• Add a new note to TS Table 3.3.1.1–1, Function 2.b, that requires the Flow Biased Simulated Thermal Power—Upscale scram setpoint to be reset to the values defined by the Core Operating Limits Report (COLR) to implement the Automated Backup Stability Protection (BSP) Scram Region in accordance with Required Action F.2.1 of TS 3.3.1.1.

• Add a new note to TS Table 3.3.1.1–1, Function 2.e, Oscillation Power Range Monitor (OPRM)—Upscale to denote that following implementation of DSS–CD, DSS–CD is not required to be armed while in the DSS–CD Armed Region during the first reactor startup and during the first controlled shutdown that passes completely through the DSS–CD Armed Region. However, DSS–CD is considered operable and capable of automatically arming for operation at recirculation drive flow rates above the DSS–CD Armed Region.

• Change the mode of applicability for TS Table 3.3.1.1–1, Function 2.e, OPRM-Upscale from Mode 1 to ≥18% RTP.

• Change the allowable value for TS Table 3.3.1.1–1, Function 2.e, from ''As specified in the COLR'' to ''NA [not applicable].''

• Add a prohibition to TS Limiting Condition for Operation (LCO) 3.4.1, ''Recirculation Loops Operating,'' that prohibits operation in the Maximum Extended Load Line Limit Analysis (MELLLA) domain or MELLLA+ expanded operating domain as defined in the COLR when in operation with a single recirculation loop.

• Add Required Action B.2 to TS 3.4.1 to identify that intentional operation in the MELLLA domain or MELLLA+ domain as defined in the COLR is prohibited when a recirculation loop is declared ''not in operation'' due to a recirculation loop flow mismatch not within limits.

• Revise TS 5.6.5.a.4 to replace ''Reactor Protection System Instrumentation Setpoint for the OPRM—Upscale Function Allowable Value for Specification 3.3.1.1'' with ''The Manual Backup Stability Protection (BSP) Scram Region (Region I), the Manual BSP Controlled Entry Region (Region II), the modified APRM Simulated Thermal Power—High setpoints used in the OPRM (Function 2.e), Automated BSP Scram Region, and the BSP Boundary for Specification 3.3.1.1.''

• Add TS 5.6.8, ''OPRM Report,'' to define the contents of the report required by new Required Action F.2.2 of TS 3.3.1.1.

The NRC approval of the requested operating domain expansion will allow NMP2 to implement operational changes that will increase operational flexibility for power maneuvering, compensate for fuel depletion, and maintain efficient power distribution in the reactor core without the need for more frequent rod pattern changes. MELLLA+ supports operation of NMP2 at Current Licensed Thermal Power (CLTP) of 3,988 Megawatts—Thermal (MW_{th}) with core flow as low as 85% of rated core flow. By operating in the MELLLA+ domain, a significantly lower number of control rod movements will be required than in the present operating domain. This represents a significant improvement in operating flexibility. It also provides safer operation, because reducing the number of control rod manipulations: (a) Minimizes the likelihood of fuel failures, and (b) reduces the likelihood of accidents initiated by reactor maneuvers required to achieve an operating condition where control rods can be withdrawn.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The probability (frequency of occurrence) of Design Basis Accidents occurring is not affected by implementing the MELLLA+ operating domain and DSS–CD stability solution, because NMP2 continues to comply with the regulatory and design basis criteria established for plant equipment. A SLS failure is not a precursor of any previously evaluated accident in the NMP2 USAR [updated safety analysis report]. The increase to the SLMCPR for two recirculation loops in operation does not increase the probability of an evaluated accident. Consequently, there is no change in the probability of a [***] previously evaluated accident.

The spectrum of postulated transients was investigated and shown to remain within the NRC approved acceptance limits. Fuel integrity is maintained by meeting existing design and regulatory limits. Further, a probabilistic risk assessment demonstrates that the calculated core damage frequency and the large early release frequency do not significantly change due to operation in the MELLLA+ domain.

Challenges to the reactor coolant pressure boundary were evaluated for the MELLLA+ operating domain conditions (pressure, temperature, flow, and radiation) and were found to meet their acceptance criteria for allowable stresses and overpressure margin.

Challenges to the containment were evaluated and the containment and its associated cooling systems continue to meet the current licensing basis. The calculated post LOCA suppression pool temperature remains acceptable.

The SLS is used to mitigate the consequences of an Anticipated Transient Without SCRAM (ATWS) special event and is used to limit the radiological dose during a Loss of Coolant Accident (LOCA). The proposed changes do not affect the capability of the SLS to perform these two functions in accordance with the assumptions of the associated analyses. The ATWS evaluation with the proposed changes incorporated demonstrated that all the ATWS acceptance criteria are met. The ability of the SLS to mitigate radiological dose in the event of a LOCA by maintaining suppression pool pH ≥7.0 is not affected by these changes.

This proposed change to the SLMCPR for two recirculation loops in operation does not result in any modification to the design or operation of the systems that are used in mitigation of accidents. Limits have been established, consistent with NRC approved methods, to ensure that fuel performance during normal, transient, and accident conditions is acceptable. The proposed change to the SLMCPR for two recirculation loops in operation continues to conservatively establish this safety limit such that the fuel is protected during normal operation and during any plant transients or anticipated operational occurrences.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Will the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Equipment that could be affected by implementing the MELLLA+ operating domain and DSS–CD stability solution was evaluated. No new operating mode, safety-related equipment lineup, accident scenario, or equipment failure mode was identified. The full spectrum of accident considerations was evaluated and no new or different kind of accident was identified. The MELLLA+ operating domain and DSS–CD stability solution use developed technology and apply it within the capabilities of existing plant safety-related equipment in accordance with the regulatory criteria (including NRC

approved codes, standards and methods). No new accident or event precursor was identified.

The long-term stability solution is being changed from the currently approved Option III solution to DSS–CD. DSS–CD is designed to identify the power oscillation upon inception and initiate control rod insertion (scram) to terminate the oscillations prior to any significant amplitude growth. DSS–CD is based on the same hardware design as Option III. However, it introduces an enhanced detection algorithm that detects the inception of power oscillations and generates an earlier power suppression trip signal exclusively based on successive period confirmation recognition. The existing Option III algorithms are retained (with generic setpoints) to provide defense-in-depth protection for unanticipated reactor instability events.

Structures, systems, and components (SSCs) previously required for the mitigation of a transient remain capable of fulfilling their intended design functions. The proposed changes do not adversely affect safety-related systems or components and do not challenge the performance or integrity of any safety-related system. The physical changes to the SLS are limited to the increase in the boron-10 enrichment of the sodium pentaborate solution in the SLS storage tank, the corresponding decrease in the net sodium pentaborate solution volume requirement in the SLS storage tank, the increase in the SLS pump discharge pressure acceptance criterion, and the associated instrumentation changes. The proposed changes do not otherwise affect the design or operation of the SLS.

This proposed change to the SLMCPR for two recirculation loops in operation does not result in any modification to the design or operation of the systems that are used in the mitigation of accidents. The proposed change to the SLMCPR for two recirculation loops in operation assures that safety criteria are maintained.

The proposed changes do not adversely affect any current system interfaces or create any new interfaces that could result in an accident or malfunction of a different kind than was previously evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Will the change involve a significant reduction in a margin of safety?

Response: No.

The MELLLA+ operating domain affects only design and operational margins. Challenges to the fuel, reactor coolant pressure boundary, and containment were evaluated for the MELLLA+ operating domain conditions. Fuel integrity is maintained by meeting existing design and regulatory limits. The calculated loads on affected SSCs, including the reactor coolant pressure boundary, will remain within their design specifications for design basis event categories. No NRC acceptance criterion is exceeded.

Comprehensive analyses of the proposed changes have concluded that relevant design and safety acceptance criteria will be met without a significant reduction in margins of safety. The analyses have demonstrated that the NMP2 SSCs are capable of safely performing at MELLLA+ conditions. The analyses identified and defined the major input parameters to the Nuclear Steam Supply System (NSSS), analyzed NSSS design transients, and evaluated the capabilities of the NSSS fluid systems, NSSS/Balance of Plant (BOP) interfaces, NSSS control systems, and NSSS and BOP components, as appropriate. Radiological consequences of design basis events remain within regulatory limits and are not increased significantly. The analyses confirmed that NSSS and BOP SSCs are capable of achieving MELLLA+ conditions without significant reduction in margins of safety.

Analyses have shown that the integrity of primary fission product barriers will not be significantly affected as a result of change in the operating domain. Calculated loads on SSCs important to safety have been shown to remain within design allowables with MELLLA+ conditions for all design basis event categories. Plant response to transients and accidents do not result in exceeding acceptance criteria. As appropriate, the evaluations that demonstrate acceptability of MELLLA+ have been performed using methods that have either been reviewed and approved by the NRC staff, or that are in compliance with regulatory review guidance and standards established for maintaining adequate margins of safety. These evaluations demonstrate that there are no significant reductions in the margins of safety.

The SLS is used to mitigate the consequences of an ATWS event and is used to limit the radiological dose during a LOCA. The proposed changes do not affect the capability of the SLS to perform these two functions in accordance with the assumptions of the associated analyses. The ATWS evaluation with the proposed changes incorporated demonstrated that all the ATWS acceptance criteria are met. The ability of the SLS to mitigate radiological dose in the event of a LOCA by maintaining suppression pool pH ≥ 7.0 is not affected by these changes.

This proposed change to the SLMCPR for two recirculation loops in operation provides a margin of safety by ensuring that no more than 0.1% of fuel rods are expected to be in boiling transition if the MCPR limit is not violated. The proposed change will ensure the appropriate level of fuel protection is maintained. Additionally, operational limits are established based on the proposed SLMCPR to ensure that the SLMCPR is not violated during all modes of operation. This will ensure that the fuel design safety criteria are met (i.e., that at least 99.9% of the fuel rods do not experience transition boiling during normal operation as well as anticipated operational occurrences).

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Gautam Sen, Senior Counsel, Constellation Energy Nuclear Group, LLC, 100 Constellation Way, Suite 200C, Baltimore, MD 21202.

NRC Branch Chief: Benjamin Beasley.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: January 23, 2014 (not publicly available). A publicly-available redacted version dated March 31, 2014, is in ADAMS under Accession No. ML14097A088.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise the Cyber Security Plan Implementation Milestone No. 8 completion date and the physical protection license condition.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the WCNOC [Wolf Creek Nuclear Operating Corporation] Cyber Security Plan Implementation Schedule is administrative in nature. This change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components (SSCs) relied upon to mitigate the consequences of postulated accidents, and has no impact on the probability or consequences of an accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the WCNOC Cyber Security Plan Implementation Schedule is administrative in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant

modifications which affect the performance capability of the SSCs relied upon to mitigate the consequences of postulated accidents, and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The proposed change to the WCNOC Cyber Security Plan Implementation Schedule is administrative in nature. Since the proposed change is administrative in nature, there is no change to these established safety margins.

Therefore the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street NW., Washington, DC 20037.

NRC Branch Chief: Michael T. Markley.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Entergy Operations, Inc., Docket Nos. 50–313 and 50–368, Arkansas Nuclear One, Units 1 and 2, Pope County, Arkansas;

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York;

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 20th day of May, 2014.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/Activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

[FR Doc. 2014–12402 Filed 6–5–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0132]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 15 to May 28, 2014. The last biweekly notice was published on May 27, 2014.

DATES: Comments must be filed by July 7, 2014. A request for a hearing must be filed by August 5, 2014.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0132. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422;

email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Janet Burkhardt, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1384, email: *Janet.Burkhardt@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2014–0132 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0132.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0132 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and

extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the

Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Accessing Information and Submitting Comments'' section of this document.

PSEG Nuclear LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Units 1 and 2, Salem County, New Jersey

Date of amendment request: March 24, 2014. A publicly-available version is in ADAMS under Accession No. ML14083A439.

Description of amendment request: The proposed amendment would revise Salem Surveillance Requirements (SRs) 4.2.1.3, 4.2.1.4, and 4.2.2.2.f associated with Power Distribution Limits Technical Specification (TS) 3/4.2.1, ''Axial Flux Difference (AFD),'' and TS 3/4.2.2, ''Heat Flux Hot Channel Factor—$F_Q(Z)$.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The change to Surveillance Requirement (SR) 4.2.1.3 will not result in any design or regulatory limit being exceeded with respect to the safety analyses documented in the Updated Final Safety Analysis Report (UFSAR). The change to SR 4.2.1.3 aligns the Technical Specifications (TS) with the current TS Bases and is consistent with NUREG–1431; there is no change to how target flux difference is measured. Since the change does not impact any conditions that would initiate an accident, the probability or consequences of previously analyzed events is not increased.

Therefore, there is no impact to the probability or consequences of an accident previously evaluated.

The change to SR 4.2.1.4 and TS Bases by utilizing the predicted Axial Flux Difference (AFD) at end of cycle life in determining the target AFD via interpolation will not result in any design or regulatory limit being exceeded with respect to the safety analyses documented in the UFSAR. The change to SR 4.2.1.4 aligns the TS with the Salem UFSAR design basis as described in Section 4. 3.2.2.6, which specifies use of cycle specific target values, and is consistent with NUREG–1431. Since the change does not impact any conditions that would initiate an accident, the probability or consequences of previously analyzed events is not increased.

Therefore, there is no impact to the probability or consequences of an accident previously evaluated.

The relocation of the SR 4.2.2.2.f axial exclusion zones to the TS Bases has no impact to the accidents analyzed in the Salem UFSAR and is not an accident initiator. The relocation of the axial exclusion zones to the TS Bases is consistent with NUREG–1431. Since the change does not impact any conditions that would initiate an accident, the probability or consequences of previously analyzed events is not increased.

Therefore, there is no impact to the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The change to SR 4.2.1.3 will not result in any design or regulatory limit being exceeded with respect to the safety analyses documented in the UFSAR. The change to SR 4.2.1.3 aligns the TS with the current TS Bases and is consistent with NUREG–1431; there is no change to how target flux difference is measured. Since the change does not impact any conditions that would initiate an accident, there is no possibility of a new or different kind of accident resulting from the change.

Therefore, there is no possibility of a new or different kind of accident from those previously evaluated.

The change to SR 4.2.1.4 and TS Bases by utilizing the predicted Axial Flux Difference (AFD) at end of cycle life in determining the target AFD via interpolation will not result in any design or regulatory limit being exceeded with respect to the safety analyses documented in the UFSAR. The change to SR 4.2.1.4 aligns the TS with the Salem UFSAR design basis as described in Section 4.3.2.2.6, which specifies use of cycle specific target values, and is consistent with NUREG–1431. Since the change does not impact any conditions that would initiate an accident, there is no possibility of a new or different kind of accident resulting from the change.

Therefore, there is no possibility of a new or different kind of accident from those previously evaluated.

The relocation of the SR 4.2.2.2.f axial exclusion zones to the TS Bases has no impact to the accidents analyzed in the Salem UFSAR and is not an accident initiator. The relocation of the axial exclusion zones to the TS Bases is consistent with NUREG–1431. Since the change does not impact any conditions that would initiate an accident, there is no possibility of a new or different kind of accident resulting from the change.

Therefore, there is no possibility of a new or different kind of accident from those previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The change to SR 4.2.1.3 will not result in any design or regulatory limit being exceeded with respect to the safety analyses documented in the UFSAR. The change to SR 4.2.1.3 aligns the TS with the current TS Bases and is consistent with NUREG–1431; there is no change to how target flux difference is measured.

Therefore, there is no reduction in margin of safety.

The change to SR 4.2.1.4 and TS Bases by utilizing the predicted Axial Flux Difference

(AFD) at end of cycle life in determining the target AFD via interpolation will not result in any design or regulatory limit being exceeded with respect to the safety analyses documented in the UFSAR. The change to SR 4.2.1.4 aligns the TS with the Salem UFSAR design basis as described in Section 4.3.2.2.6, which specifies use of cycle specific target values, and is consistent with NUREG–1431.

Therefore, there is no reduction in margin of safety.

The relocation of the SR 4.2.2.2.f axial exclusion zones to the TS Bases has no impact to the accidents analyzed in the Salem UFSAR and is not an accident initiator. The relocation of the axial exclusion zones to the TS Bases is consistent with NUREG–1431. In accordance with NRC approved methodologies (TS 6.9.1.9), reload specific safety evaluations are performed to ensure that the limits of safety analyses are met (i.e., margin of safety).

Therefore, the relocation of the axial exclusion zones to the TS Bases does not impact margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, PSEG Nuclear LLC—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Branch Chief: Meena K. Khanna.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station (VCSNS), Unit 1, Fairfield County, South Carolina

Date of amendment request: April 7, 2014. A publicly-available version is in ADAMS under Accession No. ML14122A144.

Description of amendment request: The proposed amendment requests approval of a revision to the emergency action levels from a scheme based on NEI 99–01, Revision 5, ''Methodology for Development of Emergency Action Levels'' to a scheme based on NEI 99–01, Revision 6, ''Methodology for Development of Emergency Action Levels.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the VCSNS emergency action levels do not impact the physical function of plant structures, systems, or components (SSC) or the manner in which SSCs perform their design function. The proposed changes neither adversely affect accident initiators or precursors, nor alter design assumptions. The proposed changes do not alter or prevent the ability of SSCs to perform their intended function to mitigate the consequences of an initiating event within assumed acceptance limits. No operating procedures or administrative controls that function to prevent or mitigate accidents are affected by the proposed changes.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed or removed) or a change in the method of plant operation. The proposed changes will not introduce failure modes that could result in a new accident, and the change does not alter assumptions made in the safety analysis. The proposed changes to the VCSNS emergency action levels are not initiators of any accidents.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is associated with the ability of the fission product barriers (i.e., fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed changes do not impact operation of the plant or its response to transients or accidents. The changes do not affect the Technical Specifications or the operating license. The proposed changes do not involve a change in the method of plant operation, and no accident analyses will be affected by the proposed changes. Additionally, the proposed changes will not relax any criteria used to establish safety limits and will not relax any safety system settings. The safety analysis acceptance criteria are not affected by these changes. The proposed changes will not result in plant operation in a configuration outside the design basis. The proposed changes do not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition. The emergency plan will continue to activate an emergency response commensurate with the extent of degradation of plant safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Hagood Hamilton, Jr., South Carolina Electric & Gas Company, Post Office Box 764, Columbia, SC 29218.

NRC Branch Chief: Robert J. Pascarelli.

Southern Nuclear Operating Company, Inc. Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: April 11, 2014. A publicly-available version is in ADAMS under Accession No. ML14101A459.

Description of amendment request: The proposed license amendment request would depart from the plant-specific Design Control Document (DCD) Tier 1 and Tier 2 material to describe modifications to increase the efficiency of the return of condensate utilized by the passive core cooling system to the in-containment refueling water storage tank to support the capability for long-term cooling.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed containment condensate flow path changes provide sufficient condensate return flow to maintain In-containment Refueling Water Storage Tank (IRWST) level above the top of the Passive Residual Heat Removal Heat Exchanger (PRHR HX) tubes, thus preventing PRHR HX performance degradation from that considered in the safety analyses. The added components are seismically qualified and constructed of only those materials appropriately suited for exposure to the reactor coolant environment as described in [Updated Final Safety Analysis Report] UFSAR Section 6.1. No aluminum is permitted to be used in the construction of these components so that they do not contribute to hydrogen production in containment. The proposed changes do not alter design features available during anticipated operational occurrences or accidents. The proposed changes do not involve any accident initiating component/system failure or event, thus the probabilities of the accidents previously evaluated are not affected. The affected equipment does not adversely affect or interact with safety-related equipment or a radioactive material barrier, and this activity does not involve the containment of radioactive material. Thus, the proposed changes do not affect any

safety-related accident mitigating function. The radioactive material source terms and release paths used in the safety analyses are unchanged, thus the radiological releases in the UFSAR accident analyses are not affected.

Therefore, the proposed amendment does not involve an increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The long-term safe shutdown analysis results show that the PRHR HX continues to meets its acceptance criterion, i.e., to cool the Reactor Coolant System (RCS) to below 420°F in 36 hours. The affected equipment does not adversely interface with any component whose failure could initiate an accident, or any component that contains radioactive material. The modified components do not incorporate any active features relied upon to support normal operation. The downspout and gutter return components are seismically qualified to remain in place and functional during seismic and dynamic events. The containment condensate flow path changes do not create a new fault or sequence of events that could result in a radioactive material release.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not reduce the redundancy, diversity or performance of any safety-related function. The proposed containment condensate flow path changes provide sufficient condensate return flow to maintain adequate IRWST water level for those events using the PRHR HX cooling function. The long-term Shutdown Temperature Evaluation results show the PRHR HX continues to meets [sic] its acceptance criterion. The UFSAR Chapters 6 and 15 analyses results are not affected, thus margins to their regulatory acceptance criteria are unchanged. The added components are classified as safety-related, seismically qualified, and comply with their applicable design codes. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes, thus no margin of safety is reduced.

Therefore, the proposed amendment does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence J. Burkhart.

II. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Accessing Information and Submitting Comments'' section of this document.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: June 6, 2013, as supplemented by letter dated January 23, 2014.

Brief description of amendments: These amendments change Surveillance Requirement (SR) 3.5.1.12 in Technical Specification (TS) 3.5.1, ''ECCS [emergency core cooling system]—Operating.'' Specifically, the amendments eliminate the TS requirement for the Automatic Depressurization System (ADS) valves to open during manual actuation of the ADS circuitry, change the surveillance frequency from ''24 months on a STAGGERED TEST BASIS for each valve solenoid,'' to ''24 months,'' and remove a note above the SR that stated the SR was ''not required to be performed until 12 hours after reactor steam pressure and flow are adequate to perform the test.''

Date of issuance: May 14, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 260 and 241. A publicly-available version is in ADAMS under Accession No. ML14111A052; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the license and the TS.

*Date of initial notice in **Federal Register:*** December 10, 2013 (78 FR 74183). The supplemental letter dated January 23, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 14, 2014.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: July 5, 2012, as supplemented by letters dated November 13 and November 30, 2012, and February 22, 2013.

Brief description of amendments: The amendments revise the Technical Specification Limiting Condition for Operation for the plant service water (PSW) and ultimate heat sink. Specifically, the surveillance requirement for the minimum water level in each PSW pump well of the intake structure would be revised from a value of 60.7 feet mean sea level (MSL) to a value of 60.5 MSL.

Date of issuance: May 13, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: Unit 1–267 and Unit 2–211. A publicly-available version is in ADAMS under Accession No. ML14042A465; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the licenses and the technical specifications.

Date of initial notice in ***Federal Register:*** September 4, 2012 (77 FR 53930). The supplements dated November 13, and November 30, 2012, and February 22, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 13, 2014.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: December 21, 2012, as supplemented by letter dated May 21, 2013.

Brief description of amendment request: The amendments will incorporate a degraded grid voltage modification schedule into the J. M. Farley operating licenses. This modification would eliminate the need for manual actions in the event of a degraded grid voltage condition.

Date of issuance: May 13, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 194 and 190. A publicly-available version is in ADAMS under Accession No. ML14069A344; documents related to this these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–2 and NPF–8: Amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** September 3, 2013 (78 FR 54289). The supplement dated May 21, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 13, 2014.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 30th day of May, 2014.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–13217 Filed 6–5–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 04008964; NRC–2014–0092]

Cameco Resources

AGENCY: Nuclear Regulatory Commission.

ACTION: Temporary exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a temporary exemption from certain NRC financial assurance requirements to Cameco Resources (Cameco) in response to its annual financial assurance update for the North Butte satellite to the Smith Ranch Highland Uranium *In-Situ* Recovery (ISR) project. Issuance of this temporary exemption will not remove the requirement for Cameco to provide adequate financial assurance through an approved mechanism, but will allow the NRC staff to further evaluate whether the State of Wyoming's separate account provision for financial assurance instruments it holds is consistent with the NRC's requirement for a standby trust agreement.

ADDRESSES: Please refer to Docket ID NRC–2014–0092 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–2014–0092. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS*): You may 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: Douglas Mandeville, Office of Federal and State Materials and Environmental Management Programs; U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–0724; email: *Douglas.Mandeville@nrc.gov.*

I. Background

Pursuant to Part 40 of Title 10 of the *Code of Federal Regulations* (10 CFR), Appendix A, Criterion 9 and NRC materials license SUA–1548, License Condition 9.5, Cameco is required to submit to the NRC for review and approval an annual update of the financial surety to cover third-party costs for decommissioning and decontamination for the Smith Ranch Highland ISR project and its related satellite facilities at Gas Hills, North Butte, and Ruth. Smith Ranch Highland is located in Converse County, Wyoming and its related satellite facilities are located in Natrona and Fremont; Campbell; and Johnson Counties, Wyoming, respectively. By letter dated January 30, 2014, Cameco submitted to the NRC its North Butte annual surety update for 2014–2015 (ADAMS Accession No. ML14043A218). The NRC's staff reviewed the annual financial surety updates and found the values reasonable for the required reclamation activities (ADAMS Accession No. ML14115A219). Cameco maintains approved financial assurance instruments in favor of the State of Wyoming; however, it does not have a standby trust agreement (STA) in place, as required by 10 CFR Part 40, Appendix A, Criterion 9.

II. Description of Action

As of December 17, 2012, the NRC's uranium milling licensees, which are regulated, in part, under 10 CFR Part 40, Appendix A, Criterion 9, are required to have an STA in place. Criterion 9 provides that if a licensee does not use a trust as its financial assurance mechanism, then the licensee is

required to establish a standby trust fund to receive funds in the event the Commission or State regulatory agency exercises its right to collect the funds provided for by surety or letter of credit. The purpose of an STA is to provide a separate account to hold decommissioning funds in the event of a default. Consistent with the provisions of 10 CFR Part 40, Appendix A, Criterion 9(d), Cameco has consolidated its NRC financial assurance sureties with those it is required to obtain by the State of Wyoming, and the financial instrument is held by the State of Wyoming. Cameco has not established an STA, nor has it requested an exemption from the requirement to do so.

Wyoming law requires that a separate account be set up to receive forfeited decommissioning funds, but does not specifically require an STA. Section 35–11–424(a) of the Code of Wyoming states that ''[a]ll forfeitures collected under the provisions of this act shall be deposited with the State treasurer in a separate account for reclamation purposes.'' Under Wyoming Department of Environmental Quality (WDEQ) financial assurance requirements, WDEQ holds permit bonds in a fiduciary fund called an agency fund. If a bond is forfeited, the forfeited funds are moved to a special revenue account. Although the Wyoming special revenue account is not an STA, the special revenue account serves a similar purpose in that forfeited funds are not deposited into the State treasury for general fund use, but instead are set aside in the special revenue account to be used exclusively for reclamation, i.e., decommissioning, purposes.

The NRC has the discretion, under 10 CFR 40.14(a), to grant an exemption from the requirements of a regulation in 10 CFR Part 40 on its own initiative, if the NRC determines the exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. The NRC has elected to grant Cameco an exemption to the STA requirements in 10 CFR Part 40, Appendix A, Criterion 9, for the current surety arrangement until the 2016 review cycle to allow the NRC an opportunity to evaluate whether the State of Wyoming's separate account requirements for financial assurance instruments it holds is consistent with the NRC's STA requirements.

III. Discussion

A. The Exemption Is Authorized by Law

The NRC staff concluded that the proposed exemption is authorized by law as 10 CFR 40.14(a) expressly allows for an exemption to the requirements in 10 CFR Part 40, Appendix A, Criterion 9, and the proposed exemption would not be contrary to any provision of the Atomic Energy Act of 1954, as amended.

B. The Exemption Presents No Undue Risk to Public Health and Safety

The exemption is related to the financial surety. The requirement that the licensee provide adequate financial assurance through an approved mechanism (e.g., a surety bond, irrevocable letter of credit) would remain unaffected by the exemption. Rather, the exemption would only pertain to the establishment of a dedicated trust in which funds could be deposited in the event that the financial assurance mechanism would be need to be liquidated. The requirement in 10 CFR Part 40, Appendix A, Criterion 9(d), allows for the financial or surety arrangements to be consolidated within a State's similar financial assurance instrument. The NRC has determined that while the WDEQ does not require an STA, the special revenue account may serve a similar purpose in that forfeited funds are not deposited into the State treasury for general fund use, but instead are set aside in the special revenue account to be used exclusively for site-specific reclamation, i.e., decommissioning, purposes. Because the licensee remains obligated to establish an adequate financial assurance mechanism for its licensed sites, and the NRC has approved such a mechanism, sufficient funds are available in the event that the site would need to be decommissioned. A temporary delay in establishing an STA does not impact the present availability and adequacy of the actual financial assurance mechanism. Therefore, the limited exemption being issued by the NRC herein presents no undue risk to public health and safety.

C. The Exemption Is Consistent With the Common Defense and Security

The proposed exemption would not involve or implicate the common defense or security. Therefore, granting the exemption will have no effect on the common defense and security.

D. The Exemption Is in the Public Interest

The proposed exemption would enable the NRC staff to evaluate the State of Wyoming's separate account provision and the NRC's STA requirement to determine if they are comparable. The evaluation process will allow the NRC to determine whether the licensee's compliance with the state law provision will sufficiently address the NRC requirement as well, and therefore provide clarity on the implementation of the NRC regulation in this instance. Therefore, granting the exemption is in the public interest.

E. Environmental Considerations

The NRC staff has determined that granting of an exemption from the requirements of 10 CFR Part 40, Appendix A, Criterion 9 belongs to a category of regulatory actions which the NRC, by regulation, has determined do not individually or cumulatively have a significant effect on the environment, and as such do not require an environmental assessment. The exemption from the requirement to have an STA in place is eligible for categorical exclusion under 10 CFR 51.22(c)(25)(vi)(H), which provides that exemptions from surety, insurance, or indemnification requirements are categorically excluded if the exemption would not result in any significant hazards consideration; change or increase in the amount of any offsite effluents; increase in individual or cumulative public or occupational radiation exposure; construction impacts; or increase in the potential for or consequence from radiological accidents. The NRC staff finds that the STA exemption involves surety, insurance and/or indemnity requirements and that granting Cameco this temporary exemption from the requirement of establishing a standby trust arrangement would not result in any significant hazards or increases in offsite effluents, radiation exposure, construction impacts, or potential radiological accidents. Therefore, an environmental assessment is not required.

IV. Conclusions

Accordingly, the NRC has determined that, pursuant to 10 CFR 40.14(a), the proposed temporary exemption is authorized by law, will not present an undue risk to the public health and safety, is consistent with the common defense and security, and is in the public interest. NRC hereby grants Cameco Resources an exemption from the requirement in 10 CFR part 40, Appendix A, Criterion 9 to set up a standby trust to receive funds in the event the NRC or the State regulatory agency exercises is right to collect the surety. This exemption will expire on January 30, 2016, for North Butte satellite to the Smith Ranch Highland Uranium Project. At that time, Cameco Resources will be required to ensure compliance with the STA requirements.

Dated at Rockville, Maryland, this 29th day of May 2014.

For the Nuclear Regulatory Commission.

Andrew Persinko,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2014–13214 Filed 6–5–14; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–31065]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

May 30, 2014.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of May 2014. A copy of each 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. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 24, 2014, and should be accompanied by proof of service on the applicant, 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 Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

For Further Information Contact: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE., Washington, DC 20549–8010.

AllianzGI Global Equity & Convertible Income Fund [File No. 811–22067]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant transferred its asset to AllianzGI Equity & Convertible Income Fund, and on January 27, 2014, made a distribution to its shareholders based on net asset value. Expenses of $312,000 incurred in connection with the reorganization were paid by applicant, the surviving fund and Allianz Global Investors Fund Management LLC, applicant's investment adviser.

Filing Date: The application was filed on April 30, 2014.

Applicant's Address: 1633 Broadway, New York, NY 10019.

Excelsior Buyout Investors LLC [File No. 811–21283]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On April 17, 2014, applicant made a final liquidating distribution to its shareholders, based on net asset value. Applicant paid $34,458 in connection with the liquidation.

Filing Date: The application was filed on April 17, 2014,

Applicant's Address: 225 High Ridge Rd., Stamford, CT 06905.

Tax-Free Fund of Colorado [File No. 811–5047]

Churchill Tax Free Trust [File No. 811–5086]

Tax-Free Fund for Utah [File No. 811–6239]

Aquila Narragansett Tax-Free Income Fund [File No. 811–6707]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to corresponding series of Aquila Municipal Trust, and on October 11, 2013, applicants made distributions to their shareholders based on net asset value. Expenses of $128,303, $107,966, $173,052 and $103,036, respectively, incurred in connection with the reorganizations were paid by each applicant and the corresponding acquiring funds.

Filing Date: The applications were filed on May 8, 2014.

Applicants' Address: 120 West 45th St., Suite 3600, New York, NY 10036.

Aquila Three Peaks Opportunity Growth Fund [File No. 811–8168]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets to Aquila Three Peaks Opportunity Growth Fund, a series of Aquila Funds Trust, and on October 11, 2013, applicant made a distribution to its shareholders based on net asset value. Expenses of $54,868 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on May 8, 2014.

Applicant's Address: 120 West 45th St., Suite 3600, New York, NY 10036.

Nuveen Michigan Premium Income Municipal Fund Inc. [File No. 811–7116]

Nuveen Michigan Dividend Advantage Municipal Fund [File No. 811–9453]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Nuveen Michigan Quality Income Municipal Fund, and on January 7, 2013, made distributions to their shareholders based on net asset value. Aggregate expenses of $552,421 incurred in connection with the reorganizations were allocated among applicants and the acquiring fund.

Filing Date: The applications were filed on April 23, 2014.

Applicant's Address: 333 West Wacker Dr., Chicago, IL 60606.

Nuveen Premier Municipal Opportunity Fund Inc. [File No. 811–6457]

Nuveen Premium Income Municipal Opportunity Fund [File No. 811–7792]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Nuveen AMT-Free Municipal Income Fund, and on May 6, 2013, made distributions to their shareholders based on net asset value. Aggregate expenses of $903,613 incurred in connection with the reorganizations were allocated among applicants and the acquiring fund.

Filing Date: The applications were filed on April 23, 2014.

Applicant's Address: 333 West Wacker Dr., Chicago, IL 60606.

Nuveen Arizona Dividend Advantage Municipal Fund [File No. 811–9459]

Nuveen Arizona Dividend Advantage Municipal Fund 2 [File No. 811–10553]

Nuveen Arizona Dividend Advantage Municipal Fund 3 [File No. 811–21157]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Nuveen Arizona Premium Income Municipal Fund, and on April 8, 2013, made distributions to their shareholders based on net asset value. Aggregate expenses

of $622,502 incurred in connection with the reorganizations were allocated among applicants and the acquiring fund.

Filing Date: The applications were filed on April 23, 2014.

Applicants' Address: 333 West Wacker Dr., Chicago, IL 60606.

Nuveen Ohio Dividend Advantage Municipal Fund [File No. 811–9463]

Nuveen Ohio Dividend Advantage Municipal Fund 2 [File No. 811–10445]

Nuveen Ohio Dividend Advantage Municipal Fund 3 [File No. 811–10637]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Nuveen Ohio Quality Income Municipal Fund, and on April 8, 2013, made distributions to their shareholders based on net asset value. Aggregate expenses of $666,057 incurred in connection with the reorganizations were allocated among applicants and the acquiring fund.

Filing Date: The applications were filed on April 23, 2014.

Applicants' Address: 333 West Wacker Dr., Chicago, IL 60606.

Nuveen New York Investment Quality Municipal Fund Inc. [File No. 811–6178]

Nuveen New York Select Quality Municipal Fund Inc. [File No. 811–6295]

Nuveen New York Quality Income Municipal Fund Inc. [File No. 811–6424]

Nuveen New York Premium Income Municipal Fund Inc. [File No. 811–6619]

Nuveen New York Dividend Advantage Municipal Income Fund [File No. 811–9473]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Nuveen New York AMT-Free Municipal Income Fund, and on March 11, 2013, made distributions to their shareholder based on net asset value. Aggregate expenses of $1,928,360 incurred in connection with the reorganizations were allocated among applicants and the acquiring fund.

Filing Date: The applications were filed on April 23, 2014.

Applicants' Address: 333 West Wacker Dr., Chicago, IL 60606.

Nuveen Municipal High Income Opportunity Fund 2 [File No. 811–22123]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets to Nuveen Municipal High Income Opportunity Fund, and on July 15, 2013, distributed its assets to shareholders based on net asset value. Expenses of $778,536 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on April 23, 2014.

Applicant's Address: 333 West Wacker Dr., Chicago, IL 60606.

Aegis Value Fund Inc. [File No. 811–9174]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets to Aegis Value Fund, a series of The Aegis Funds, and on February 28, 2014, made a distribution to its shareholders based on net asset value. Expenses of $140,300 incurred in connection with the reorganization were paid by Aegis Financial Corporation, investment adviser to the applicant.

Filing Date: The application was filed on May 9, 2014.

Applicant's Address: 6862 Elm St., Suite 830, McLean, VA 22101.

Separate Account VA A [File No. 811–9172]

Separate Account VA D [File No. 811–9777]

Separate Account VA E [File No. 811–9847]

Separate Account VA F [File No. 811–10411]

Separate Account VA I [File No. 811–10147]

Separate Account VA J [File No. 811–10413]

Separate Account VA K [File No. 811–10617]

Separate Account VA L [File No. 811–21087]

Separate Account VA P [File No. 811–21192]

Separate Account VA R [File No. 811–21441]

Separate Account VA S [File No. 811–21453]

Summary: Each applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Retirement Build Variable Annuity Account, and made distributions to their unit holders based on net asset value. Each applicant incurred $10,000 in expenses in connection with its reorganization, these expenses were paid by Transamerica Life Insurance Company, applicants' depositor.

Filing Date: The applications were filed on March 3, 2014.

Applicants' Address: 4333 Edgewood Rd. NE., Cedar Rapids, IA 52499.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–13102 Filed 6–5–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31067; 812–14156]

Fidus Investment Corporation, et al.; Notice of Application

June 2, 2014.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice of an application to amend a prior order issued under sections 6(c), 12(d)(1)(J), and 57(c) of the Investment Company Act of 1940 (''Act'') granting exemptions from sections 12(d)(1)(A), 18(a), 21(b), 57(a)(1)–(a)(3), and 61(a) of the Act; under section 57(i) of the Act and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by section 57(a)(4) of the Act; and under section 12(h) of the Securities Exchange Act of 1934 (''Exchange Act'') granting an exemption from section 13(a) of the Exchange Act.

Applicants: Fidus Investment Corporation (''Company''), Fidus Mezzanine Capital, L.P., (''Fidus SBIC''), Fidus Investment GP, LLC (''New General Partner''), Fidus Investment Advisors, LLC (''Fidus Advisors''), and Fidus Mezzanine Capital II, L.P. (''Fidus SBIC II'') (collectively, the ''Applicants'').

SUMMARY: *Summary of Application:* Applicants request an order (''Amended Order'') that would amend, and in part supersede, a prior order permitting a parent business development company (''BDC'') and its wholly-owned small business investment company (''SBIC'') subsidiary to engage in certain transactions that otherwise would be

permitted if such parent BDC and such SBIC subsidiary were one company and to file certain reports on a consolidated basis, and permitting such parent BDC to adhere to a modified asset coverage requirement (''Prior Order'').[1] Applicants seek to amend the Prior Order in order to permit such SBIC subsidiary, which is also a BDC, and a newly formed SBIC subsidiary or any future subsidiary to engage in certain transactions that otherwise would be permitted if such parent BDC and the subsidiaries were one company and to permit such parent BDC to adhere to a modified asset coverage requirement.

DATES: *Filing Dates:* The application was filed on May 15, 2013, and amended on December 6, 2013, April 2, 2014, and May 30, 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 June 27, 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: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, c/o Edward H. Ross, Fidus Investment Corporation, 1603 Orrington Avenue, Suite 1005, Evanston, Illinois 60201.

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Attorney, at (202) 551–6990, or MaryKay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

[1] Fidus Investment Corporation, et al., Investment Company Act Release Nos. 29974 (Mar. 1, 2012) (notice) and 30012 (Mar. 27, 2012) (order).

Applicants' Representations

1. The Company, a Maryland corporation, is an externally-managed, non-diversified, closed-end investment company that has elected to be regulated as a BDC under the Act.[2] The Company provides customized mezzanine debt and equity financing solutions to lower middle-market companies located throughout the United States that have revenues between $10 million and $150 million. The Company's investment objective is to provide attractive risk-adjusted returns by generating both current income from debt investments and capital appreciation from equity related investments. The Company's board of directors (the ''Board'') consists of five members, three of whom are not ''interested persons'' of the Company within the meaning of section 2(a)(19) of the Act.

2. Fidus SBIC, a Delaware limited partnership, received its license from the Small Business Administration (''SBA'') to operate as a SBIC under the Small Business Investment Act of 1958 (''SBA Act''). Fidus SBIC has elected to be regulated as a BDC under the Act. Fidus SBIC has the same investment objectives and strategies as the Company. The Company owns a 99.99% limited partnership interest in Fidus SBIC, and the New General Partner, a Delaware limited liability company and a wholly-owned subsidiary of the Company, owns a 0.01% general partnership interest in Fidus SBIC. Fidus SBIC is a wholly owned subsidiary of the Company because the Company and the New General Partner own all of the partnership and voting interests in Fidus SBIC. Fidus SBIC is and will remain, at all times, a Subsidiary[3] of the Company and consolidated with the Company for financial reporting purposes. Fidus SBIC has a board of directors (''Fidus SBIC Board'') consisting of three persons who are not interested persons of Fidus SBIC within the meaning of section 2(a)(19) of the Act and two persons who are interested persons of Fidus SBIC.

[2] Section 2(a)(48) of the Act defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[3] For purposes of this application, references to ''Subsidiaries'' include Fidus SBIC and Fidus SBIC II, which are the Company's only Subsidiaries currently in existence, as well as any future direct or indirect wholly-owned subsidiaries of the Company (collectively, the ''Subsidiaries'' and each a ''Subsidiary'').

3. Fidus SBIC II, a Delaware limited partnership, is a Subsidiary of the Company. Fidus SBIC II received its license from the SBA to operate as a SBIC under the SBA Act. Unlike Fidus SBIC, Fidus SBIC II will not be registered under the Act and will rely on the exclusion from the definition of investment company contained in section 3(c)(7) of the Act. The Company directly owns a 99.99% limited partnership interest in Fidus SBIC II. The New General Partner owns a 0.01% general partnership interest in Fidus SBIC II. Therefore, Fidus SBIC II is a Subsidiary of the Company because the Company and the New General Partner own all of the equity and voting interests in Fidus SBIC II. Fidus SBIC II is consolidated with the Company for financial reporting purposes.

4. Fidus Advisors, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940. Fidus Advisors serves as the investment adviser to the Company, Fidus SBIC, and Fidus SBIC II and manages the consolidated assets of the Company, including those of Fidus SBIC and Fidus SBIC II. Fidus Advisors does not currently provide management and advisory services to any other Subsidiary. It is anticipated that Fidus Advisors will also provide management and advisory services to future Subsidiaries.

5. The Prior Order permits the Company and Fidus SBIC to operate effectively as one company. At the time of the Prior Order, Fidus SBIC was the Company's only wholly-owned SBIC subsidiary. Subsequent to the Prior Order, the Company has formed Fidus SBIC II and may in the future create other Subsidiaries. The Subsidiaries may also be licensed by the SBA to operate as SBICs (collectively, the ''SBIC Subsidiaries,'' and each an ''SBIC Subsidiary'') or in some cases may not be SBICs.[4]

6. Applicants seek the Amended Order to request the same exemptive relief for Fidus SBIC II and any future Subsidiary that was granted under the Prior Order with respect to Fidus SBIC, except to the extent that such relief is not necessary due to the fact that Fidus SBIC II is not (and no future Subsidiary will be) a BDC or a registered investment company under the Act.

[4] Any existing entities that currently intend to rely on the Amended Order have been named as Applicants, and any other existing or future entities that may rely on the Amended Order in the future will comply with its terms and conditions.

Applicants' Legal Analysis

1. Applicants request the Amended Order under sections 6(c), 57(c) and 57(i) of the Act and rule 17d–1 under the Act to permit Fidus SBIC and one or more other Subsidiaries to engage in certain transactions that otherwise would be permitted if the Company and its Subsidiaries were one company and to permit the Company to adhere to modified asset coverage requirements.

2. Section 18(a) prohibits a registered closed-end investment company from issuing any class of senior security or selling any such security of which it is the issuer, unless the company complies with the asset coverage requirements set forth in that section. Section 61(a) of the Act makes section 18 applicable to BDCs, with certain modifications. Section 18(k) provides an exemption from section 18(a)(1)(A) and (B) (relating to senior securities representing indebtedness) for SBICs.

3. Applicants state that a question exists as to whether the Company must comply with the asset coverage requirements of section 18(a) (as modified by section 61(a) for BDCs) solely on an individual basis or whether it must also comply with the asset coverage requirements on a consolidated basis because the Company may be deemed to be an indirect issuer of any class of senior securities issued by any SBIC Subsidiary. Applicants state that they wish to treat Fidus SBIC II (and any future SBIC Subsidiary) as if it were a BDC subject to sections 18 and 61 of the Act. Applicants state that companies operating under the SBA Act, such as Fidus SBIC II (and other SBIC Subsidiaries), are subject to the SBA's substantial regulation of permissible leverage in their capital structure.

4. The Prior Order granted relief under section 6(c) from sections 18(a) and 61(a) to permit the Company to exclude from its consolidated asset coverage ratio any senior security representing indebtedness issued by Fidus SBIC (not any future SBIC Subsidiary). Accordingly, Applicants request relief under section 6(c) of the Act from sections 18(a) and 61(a) of the Act to permit the Company to exclude from its consolidated asset coverage ratio any senior security representing indebtedness issued by any SBIC Subsidiary.

5. Section 6(c) of the Act, in relevant part, permits the Commission to exempt any transaction or class of transactions from any provision of the Act if, and to the extent that 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 state that the requested relief satisfies the section 6(c) standard. Applicants contend that, since Fidus SBIC is entitled to rely on section 18(k) and since Fidus SBIC II (or any future SBIC Subsidiary) would be entitled to rely on section 18(k) if it were a BDC itself, there is no policy reason to deny the benefit of such exemptions to the Company.

6. Sections 57(a)(1) and (2) of the Act generally prohibit, with certain exceptions, sales or purchases of any security or other property between BDCs and certain of their affiliates as described in section 57(b) of the Act. Section 57(b) includes a person, directly or indirectly, either controlling, controlled by or under common control with the BDC. Applicants state that the Company directly owns all of the limited partnership interests in Fidus SBIC and Fidus SBIC II and indirectly owns all of the general partnership interests in Fidus SBIC and Fidus SBIC II through its 100% ownership of the New General Partner. Accordingly, Fidus SBIC and Fidus SBIC II would each be a person related to each other in a manner described in section 57(b) because each is deemed to be under the control of the Company and thus under common control. In addition, each of Fidus SBIC and Fidus SBIC II and each other Subsidiary would also be a person related to each other Subsidiary in a manner described in section 57(b).

7. Applicants state that there may be circumstances when one or more of the Company, Fidus SBIC, Fidus SBIC II or any future Subsidiary would purchase all or a portion of the portfolio investments held by one of the others in order to enhance the liquidity of the selling company or for other reasons, subject in each case to the requirements of the SBA and the regulations thereunder, as applicable. In addition, there may be circumstances when it is in the interest of the Company, Fidus SBIC and/or Fidus SBIC II for Fidus SBIC II, or for any future Subsidiaries, to invest in securities of an issuer that may be deemed to be a person related to either the Company or Fidus SBIC in a manner described in section 57(b), or for the Company to invest in securities of an issuer that may be deemed to be a person related to a Subsidiary in a manner described in section 57(b).

8. The Prior Order only extends relief from sections 57(a)(1) and (2) to transactions between the Company and Fidus SBIC. Applicants therefore request an exemption from sections 57(a)(1) and 57(a)(2) of the Act to permit any transaction between Fidus SBIC (as a BDC) and any other Subsidiary with respect to the purchase or sale of securities or other property. Applicants also seek an exemption from these provisions to allow any transaction between Fidus SBIC and a controlled portfolio affiliate of another Subsidiary. Applicants state that the requested relief is intended only to permit the Company and its Subsidiaries to do that which they otherwise would be permitted to do if they were one company.

9. Section 57(c) provides that the Commission will exempt a proposed transaction from the provisions of section 57(a)(1) and (2) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching of any person concerned, and the proposed transaction is consistent with the policy of the BDC concerned and the general purposes of the Act.

10. Applicants submit that the requested relief from section 57(a)(1) and (2) meets this standard. Applicants represent that the proposed operations as one company will enhance efficient operations of the Company and its Subsidiaries, including Fidus SBIC, and allow them to deal with portfolio companies as if the Company and such Subsidiaries were one company. Applicants contend that the terms of the proposed transactions, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching of the Company or Fidus SBIC (the BDC) by any person, and that the requested order would permit the Company and the Subsidiaries to carry out more effectively their purposes and objectives of investing primarily in small business concerns. Finally, Applicants note that the proposed transactions are consistent with the policies of the Company and Fidus SBIC as specified in filings with the Commission and the Company's reports to stockholders, as well as consistent with the policies and provisions of the Act.

11. Section 17(d) of the Act and rule 17d–1 under the Act (made applicable to BDCs by section 57(i)) prohibit affiliated persons of a registered investment company, or an affiliated person of such person, acting as principal, from participating in any joint transaction or arrangement in which the registered company or a company it controls is a participant, unless the Commission has issued an order authorizing the arrangement. Section 57(a)(4) of the Act imposes substantially the same prohibitions on joint transactions involving any BDC and an

affiliated person of such BDC, or an affiliated person of such affiliated person, as specified in section 57(b) of the Act. Section 57(i) of the Act provides that rules and regulations under section 17(d) of the Act will apply to transactions subject to section 57(a)(4) in the absence of rules under that section. The Commission has not adopted rules under section 57(a)(4) with respect to joint transactions and, accordingly, the standards set forth in rule 17d–1 govern Applicants' request for relief.

12. The Prior Order only extends relief from section 57(a)(4) and rule 17d–1 for joint transactions between the Company and Fidus SBIC. Accordingly, the Applicants request relief under section 57(i) and rule 17d–1 to permit any joint transaction that would otherwise be prohibited by section 57(a)(4), in which Fidus SBIC (as a BDC) and another Subsidiary participate, but only to the extent that the transaction would not be prohibited if the Subsidiaries participating were deemed to be part of the Company, and not separate companies.

13. In determining whether to grant an order under section 57(i) and rule 17d–1, the Commission considers whether the participation of the BDC in the joint transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Applicants note that the proposed transactions are consistent with the policy and provisions of the Act and will enhance the interests of the Company, Fidus SBIC and other Subsidiaries, while retaining the important protections afforded by the Act. In addition, because the joint participants will conduct their operations as though they comprise one company, the participation of one will not be on a basis different from or less advantageous than the others. Accordingly, Applicants believe that the standard for relief under section 57(i) and rule 17d–1 is satisfied.

14. Applicants state that the conditions in the Prior Order will be replaced by the conditions set forth below.

Applicants' Conditions

Applicants agree that the Amended Order will be subject to the following conditions:

1. The Company will at all times own and hold, beneficially and of record, all of the outstanding limited partnership interests in any Subsidiary and all of the outstanding membership interests in the New General Partner, or otherwise own and hold beneficially, all of the outstanding voting securities and equity interests of such Subsidiary.

2. The Subsidiaries will have investment policies not inconsistent with those of the Company, as set forth in the Company's registration statement.

3. No person shall serve as a member of any board of directors of any Subsidiary, including any manager under a different form of legal organization that might perform the function of a director, unless such person shall also be a member of the Company's Board. The board of directors or the managers, as applicable, of any Subsidiary will be appointed by the equity owners of such Subsidiary.

4. The Company will not itself issue or sell any senior security and the Company will not cause or permit any SBIC Subsidiary to issue or sell any senior security of which the Company or such SBIC Subsidiary is the issuer except to the extent permitted by section 18 (as modified for BDCs by section 61); provided that immediately after the issuance or sale of any such senior security by either the Company or any SBIC Subsidiary, the Company individually and on a consolidated basis shall have the asset coverage required by section 18(a) (as modified by section 61(a)), except that, in determining whether the Company and any SBIC Subsidiary on a consolidated basis have the asset coverage required by section 61(a), any senior securities representing indebtedness of a SBIC Subsidiary if that SBIC Subsidiary has issued indebtedness that is held or guaranteed by the SBA shall not be considered senior securities and, for purposes of the definition of ''asset coverage'' in section 18(h), shall be treated as indebtedness not represented by senior securities.

5. The Company will acquire securities of any SBIC Subsidiary representing indebtedness only if, in each case, the prior approval of the SBA has been obtained. In addition, the Company and any SBIC Subsidiary will purchase and sell portfolio securities between themselves only if, in each case, the prior approval of the SBA has been obtained.

6. No person will serve or act as investment adviser to Fidus SBIC II or any future Subsidiary unless the Board and the stockholders of the Company will have taken such action with respect thereto that is required to be taken under the Act by the functional equivalent of the board of directors of Fidus SBIC II or any future Subsidiary and the stockholders of Fidus SBIC II or any future Subsidiary including as if Fidus SBIC II or such future Subsidiary were a BDC.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–13103 Filed 6–5–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31068; File No. 812–14216]

Ivy Funds, et al.; Notice of Application

June 2, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order pursuant to section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 18(f) and 21(b) of the Act; pursuant to section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; pursuant to sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Act; and pursuant to section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint arrangements.

Summary of the Application: Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility.

Applicants: Ivy Funds, Ivy Funds Variable Insurance Portfolios, InvestEd Portfolios, Waddell & Reed Advisors Funds (each a ''Fund'' and collectively the ''Funds''), Ivy Investment Management Company (''IICO''), Waddell & Reed Investment Management Company (''WRIMCO'').

DATES: Filing Dates: The application was filed on September 25, 2013, and amended on March 12, 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 June 27, 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: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: 6300 Lamar Avenue, Overland Park, Kansas 66202.

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, at (202) 551–6990 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Each Fund is a Delaware statutory trust and is registered with the Commission as an open-end management investment company. Each Fund has issued one or more series having a different investment objective and different investment policies and each such series is deemed to be a Fund. Certain of the Funds either are or may be money market funds that comply with rule 2a–7 of the Act (the ''Money Market Funds'' and included in the term ''Funds''). IICO is a Delaware corporation and WRIMCO is a Kansas corporation, and each is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). IICO is a wholly-owned subsidiary of Waddell & Reed Financial, Inc. (''WDR'') and WRIMCO is an indirect wholly-owned subsidiary of WDR. Each Fund is or will be advised by an Adviser.[1]

2. At any particular time, those Funds with uninvested cash may lend money to banks or other entities by entering into repurchase agreements or purchasing other short-term instruments. At the same time, other Funds may need to borrow money from the same or similar banks for temporary purposes to satisfy redemption requests, to cover unanticipated cash shortfalls such as a trade ''fail'' or for other temporary purposes. The Funds currently are not parties to any credit facilities with banks. The Funds have an overdraft facility with their custodian.

3. The Funds seek to enter into a master interfund lending agreement (''Interfund Lending Agreement'') with each other that will allow each Fund to lend to and borrow money directly from each other for temporary purposes (''Interfund Program'' and each loan, an ''Interfund Loan''). The Money Market Funds typically will not participate as borrowers under the Interfund Program but may do so if it is determined to be in the best interests of such Funds by the applicable Adviser and its respective portfolio manager(s). Applicants state that the Interfund Program would enable the Funds to access an available source of money and reduce costs incurred by the Funds that need to obtain loans for temporary purposes and permit those Funds that have cash available: (i) To earn a return on the money that they might not otherwise be able to invest; or (ii) to earn a higher rate of interest on investment of their short-term balances. Although the proposed Interfund Program would reduce the Funds' need to borrow through custodian overdrafts, in the future, the Funds would be free to establish committed lines of credit or other borrowing arrangements with banks.

4. Applicants anticipate that the Interfund Program would provide a borrowing Fund with significant savings at times when the cash position of the borrowing Fund is insufficient to meet temporary cash requirements. This situation could arise when shareholder redemptions exceed anticipated volumes, such as during periods when shareholders redeem from the Funds in connection with the periodic re-balancing of their portfolios, and certain Funds have insufficient cash on hand to satisfy such redemptions. Another example could arise if shareholder redemption requests dramatically increase during a period of unusual market activity and cause the Funds to require short-term liquidity. When the Funds liquidate portfolio securities to meet redemption requests, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). However, a significant amount of redemption requests normally are effected on a trade date plus 1 (T+1) basis. The proposed Interfund Program would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

5. Applicants also anticipate that a Fund could use the Interfund Program when a sale of securities ''fails'' due to circumstances beyond the Fund's control, such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. ''Sales fails'' may result in a cash shortfall if the Fund has undertaken to purchase securities using the proceeds from securities sold. Alternatively, a Fund could (i) ''fail'' on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Fund; or (ii) sell a security on a same-day settlement basis, earning a lower return on the investment. Use of the Interfund Program under these circumstances would enable the Fund to have access to immediate short-term liquidity.

6. While custodian overdrafts generally could supply Funds with needed cash to cover unanticipated redemptions and ''sales fails,'' under the proposed Interfund Program, a borrowing Fund would pay lower interest rates than those that would be payable under an overdraft with the custodian. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in overnight repurchase agreements or other substantially equivalent short-term investments. Thus, applicants assert that the proposed Interfund Program would benefit both borrowing and lending Funds.

7. The interest rate charged to the Funds on any Interfund Loan (the ''Interfund Loan Rate'') would be determined daily by the Interfund Lending Team (as defined below) and will consist of the average of the ''Repo Rate'' and the ''Bank Loan Rate,'' both as defined below. The Repo Rate would be the highest rate available to a lending Fund from investing in overnight repurchase agreements. The Bank Loan Rate for any day would be calculated by the Interfund Lending Team on each day an Interfund Loan is made according to a formula established by each Fund's board of trustees (the ''Board'') intended to approximate the lowest interest rate at which a bank short-term loan would be available to the Fund. The formula would be based upon a publicly available rate (*e.g.,* federal funds rate and/or LIBOR) plus an additional spread of basis points and would vary with this rate so as to reflect

[1] Applicants request that the order also apply to any existing or future series of the Funds and to any other registered open-end management investment company or its series for which IICO or WRIMCO and each successor thereto or a person controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with IICO or WRIMCO serves as investment adviser (each an ''Adviser'' and collectively, the ''Advisers''). Any Adviser will be registered as an investment adviser under the Advisers Act. All Funds that currently intend to rely on the requested order have been named as applicants and any other Fund that relies on the requested order in the future will comply with the terms and conditions of the application. A ''successor'' is defined as any entity resulting from a reorganization of either IICO or WRIMCO into another jurisdiction or a change in the type of business organization.

changing bank loan rates. The initial formula and any subsequent modifications to the formula would be subject to the approval of each Fund's Board. In addition, the Board of each Fund would periodically review the continuing appropriateness of reliance on the formula used to determine the Bank Loan Rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Fund.

8. Investment professionals and administrative personnel from the Advisers and their affiliates (the ''Interfund Lending Team'') will administer the Interfund Program. No portfolio manager of any Fund will serve as a member of the Interfund Lending Team. Under the proposed Interfund Program, portfolio managers for each participating Fund would have the ability to provide standing instructions to participate daily as a borrower or lender. The Interfund Lending Team on each business day would collect data on the uninvested cash and borrowing requirements of all participating Funds. Once the Interfund Lending Team has determined the aggregate amount of cash available for loans and borrowing demand, the Interfund Lending Team will allocate loans among borrowing Funds without any further communication from the portfolio managers of the Funds. Applicants anticipate that there typically will be far more available uninvested cash each day than borrowing demand. Therefore, after the Interfund Lending Team has allocated cash for Interfund Loans, the Interfund Lending Team will invest any remaining cash in accordance with the instructions of each relevant portfolio manager or such remaining amounts will be invested directly by the portfolio managers of the Funds.

9. The Interfund Lending Team will allocate borrowing demand and cash available for lending among the Funds on what the Interfund Lending Team believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as (i) the time a Fund files a request to participate, (ii) minimum loan lot sizes, and (iii) the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each Interfund Loan normally will be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction. The procedures for allocating cash among borrowers and determining loan participations among lenders, together with related administrative procedures will be approved by the Board of each Fund, including a majority of the Board members who are not ''interested persons'' of the Fund, as that term is defined in section 2(a)(19) of the Act (''Independent Board Members''), to ensure that both borrowing and lending Funds participate on an equitable basis.

10. The Interfund Lending Team would: (a) Monitor the Interfund Loan Rates charged and the other terms and conditions of the Interfund Loans; (b) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations; (c) implement and follow procedures designed to ensure equitable treatment of each Fund; and (d) make quarterly reports to the Board of each Fund concerning any transactions by the applicable Fund under the Interfund Program and the Interfund Loan Rate charged.

11. The Advisers, through the Interfund Lending Team, would administer the Interfund Program as disinterested fiduciaries as part of their duties under the investment management agreement with each Fund and would receive no additional fee as compensation for their services in connection with the administration of the Interfund Program.

12. No Fund may participate in the Interfund Program unless: (a) The Fund has obtained shareholder approval for its participation, if such approval is required by law; (b) the Fund has fully disclosed all material information concerning the Interfund Program in its prospectus and/or statement of additional information; and (c) the Fund's participation in the Interfund Program is consistent with its investment objectives, limitations and organizational documents.

13. In connection with the Interfund Program, applicants request an order under section 6(c) of the Act exempting them from the provisions of sections 18(f) and 21(b) of the Act; under section 12(d)(1)(J) of the Act exempting them from section 12(d)(1) of the Act; under sections 6(c) and 17(b) of the Act exempting them from sections 17(a)(1), 17(a)(2), and 17(a)(3) of the Act; and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements and transactions.

Applicants' Legal Analysis

1. Section 17(a)(3) of the Act generally prohibits any affiliated person of a registered investment company, or affiliated person of an affiliated person, from borrowing money or other property from the registered investment company. Section 21(b) of the Act generally prohibits any registered management company from lending money or other property to any person, directly or indirectly, if that person controls or is under common control with that company. Section 2(a)(3)(C) of the Act defines an ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, such other person. Section 2(a)(9) of the Act defines ''control'' as the ''power to exercise a controlling influence over the management or policies of a company,'' but excludes circumstances in which ''such power is solely the result of an official position with such company.'' Applicants state that the Funds may be under common control by virtue of having common investment advisers and/or by having common officers.

2. Section 6(c) of the Act provides that an exemptive order may be granted where an exemption is ''necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions'' of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants assert that sections 17(a)(3) and 21(b) of the Act were intended to prevent a party with strong potential adverse interests and some influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of such party and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed transactions do not raise these concerns because: (a) The Advisers, through the Interfund Lending Team, would administer the Interfund Program as disinterested fiduciaries as part of their duties under the investment management and administrative agreements with each Fund; (b) all Interfund Loans would consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-

term investments; (c) the Interfund Loans would not involve a greater risk than such other investments; (d) the lending Fund would receive interest at a rate higher than it could obtain through such other investments; and (e) the borrowing Fund would pay interest at a rate lower than otherwise available to it through custodian overdrafts and avoid the up-front commitment fees generally associated with committed lines of credit. Moreover, applicants assert that the other terms and conditions that applicants propose also would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from selling securities or other property to the investment company. Section 17(a)(2) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from purchasing securities or other property from the investment company. Section 12(d)(1) of the Act generally prohibits a registered investment company from purchasing or otherwise acquiring any security issued by any other investment company except in accordance with the limitations set forth in that section.

5. Applicants state that the obligation of a borrowing Fund to repay an Interfund Loan could be deemed to constitute a security for the purposes of sections 17(a)(1) and 12(d)(1). Applicants also state that any pledge of securities to secure an Interfund Loan by the borrowing Fund to the lending Fund could constitute a purchase of securities for purposes of section 17(a)(2) of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent that such exemption is consistent with the public interest and the protection of investors. Applicants submit that the requested exemptions from sections 17(a)(1), 17(a)(2) and 12(d)(1) are appropriate in the public interest, and consistent with the protection of investors and policies and purposes of the Act for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below. Applicants state that the requested relief from section 17(a)(2) of the Act meets the standards of section 6(c) and 17(b) because any collateral pledged to secure an Interfund Loan would be subject to the same conditions imposed by any other lender to a Fund that imposes conditions on the quality of or access to collateral for a borrowing (if the lender is another Fund) or the same or better conditions (in any other circumstance).

6. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid imposing on investors additional and duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the proposed Interfund Program does not involve these abuses. Applicants note that there will be no duplicative costs or fees to the Funds or their shareholders, and that each Adviser will receive no additional compensation for its services in administering the Interfund Program. Applicants also note that the purpose of the proposed Interfund Program is to provide economic benefits for all the participating Funds and their shareholders.

7. Section 18(f)(1) of the Act prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank, provided, that immediately after the borrowing, there is asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' generally includes any bond, debenture, note or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief under section 6(c) from section 18(f)(1) to the limited extent necessary to implement the Interfund Program (because the lending Funds are not banks). The Funds would remain subject to the requirement of section 18(f)(1) of the Act that all borrowings of a Fund, including combined Interfund Loans and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants submit that to allow the Funds to borrow from other Funds pursuant to the proposed Interfund Program is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) of the Act and rule 17d–1 under the Act generally prohibit an affiliated person of a registered investment company, or any affiliated person of such a person, when acting as principal, from effecting any joint transaction in which the investment company participates, unless, upon application, the transaction has been approved by the Commission. Rule 17d–1(b) under the Act provides that in passing upon an application filed under the rule, the Commission will consider whether the participation of the registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other participants.

9. Applicants assert that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to insiders. Applicants assert that the Interfund Program is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants assert that each Fund's participation in the proposed Interfund Program would be on terms that are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Interfund Loan Rate will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, when an Interfund Loan is to be made, the Interfund Lending Team will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is: (a) More favorable to the lending Fund than the Repo Rate; and (b) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding bank borrowings, any Interfund Loan to the Fund will: (a) Be at an interest rate equal to or lower than the interest rate of any outstanding bank loan; (b) be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral; (c) have a maturity no longer than any outstanding bank loan (and in any event not over seven days); and (d) provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, that event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement, entitling the lending Fund to call the Interfund Loan (and exercise all rights with respect to any collateral), and that such call will be made if the lending bank exercises its

right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing under the Interfund Program if its outstanding borrowings from all sources immediately after the borrowing under the Interfund Program are equal to or less than 10% of its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's borrowing under the Interfund Program will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after borrowing under the Interfund Program exceed 10% of its total assets, the Fund may borrow under the Interfund Program on a secured basis only. A Fund may not borrow under the Interfund Program or from any other source if its total outstanding borrowings immediately after the borrowing would be more than 33⅓% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceed 10% of its total assets for any other reason (such as a decline in net asset value or because of shareholder redemptions), the Fund will, within one business day thereafter: (a) Repay all its outstanding Interfund Loans; (b) reduce its outstanding indebtedness to 10% or less of its total assets; or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition 5 shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceed 10% is repaid, or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day, and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the Interfund Loan.

6. No Fund may lend to another Fund through the Interfund Program if the loan would cause the lending Fund's aggregate outstanding loans through the Interfund Program to exceed 15% of its current net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. The Fund's borrowings through the Interfund Program, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions for the preceding seven calendar days or 102% of the Fund's sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the Interfund Program must be consistent with its investment objectives and limitations, and organizational documents.

12. The Interfund Lending Team will calculate total Fund borrowing and lending demand through the Interfund Program, and allocate Interfund Loans on an equitable basis among the Funds, without the intervention of any portfolio manager of the Funds. The Interfund Lending Team will not solicit cash for the Interfund Program from any Fund or prospectively publish or disseminate loan demand data to portfolio managers of the Funds. The Interfund Lending Team will invest all amounts remaining after satisfaction of borrowing demand in accordance with the instructions of each relevant portfolio manager or such remaining amounts will be invested directly by the portfolio managers of the Funds.

13. The Interfund Lending Team will monitor the Interfund Loan Rate charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Boards of the Funds concerning the participation of the Funds in the Interfund Program and the terms and other conditions of any extensions of credit under the Interfund Program.

14. The Board of each Fund, including a majority of the Independent Board Members, will (a) review, no less frequently than quarterly, each Fund's participation in the Interfund Program during the preceding quarter for compliance with the conditions of any order permitting such participation; (b) establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans; (c) review, no less frequently than annually, the continuing appropriateness of the Bank Loan Rate formula and; (d) review, no less frequently than annually, the continuing appropriateness of each Fund's participation in the Interfund Program.

15. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction by it under the Interfund Program occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity and the Interfund Loan Rate, the rate of interest available at the time each Interfund Loan is made on overnight repurchase agreements and bank borrowing, and such other information presented to the Boards of the Funds in connection with the review required by conditions 13 and 14.

16. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, the Adviser promptly will refer the loan for arbitration to an independent arbitrator selected by the Board of the Fund involved in the loan, who will serve as arbitrator of disputes concerning Interfund Loans.[2] The arbitrator will resolve any dispute promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Board of each Fund setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

17. The Advisers will prepare and submit to the Board for review an initial report describing the operations of the Interfund Program and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of the Interfund Program, the Advisers will report on the operations of the Interfund Program at the Board's quarterly meetings.

[2] If the dispute involves Funds that do not have a common Board, the Board of each affected Fund will select an independent arbitrator that is satisfactory to each Fund.

Each Fund's chief compliance officer, as defined in rule 38a–1(a)(4) under the Act, shall prepare an annual report for its Board each year that the Fund participates in the Interfund Program, that evaluates the Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance. Each Fund's chief compliance officer will also annually file a certification pursuant to Item 77Q3 of Form N–SAR as such Form may be revised, amended or superseded from time to time, for each year that the Fund participates in the Interfund Program, that certifies that the Fund and the Advisers have implemented procedures reasonably designed to achieve compliance with the terms and conditions of the order. In particular, such certification will address procedures designed to achieve the following objectives:

(a) That the Interfund Loan Rate will be higher than the Repo Rate, but lower than the Bank Loan Rate;

(b) compliance with the collateral requirements as set forth in the application;

(c) compliance with the percentage limitations on interfund borrowing and lending;

(d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Board; and

(e) that the Interfund Loan Rate does not exceed the interest rate on any third-party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, each Fund's independent public auditor, in connection with their audit examination of the Fund, will continue to review the operation of the Interfund Program for compliance with the conditions of the application, and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the Interfund Program, upon receipt of requisite regulatory approval, unless it has fully disclosed in its prospectus and/or statement of additional information all material facts about its intended participation.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–13104 Filed 6–5–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31069; File No. 812–14209]

MarketShares ETF Trust, et al.; Notice of Application

June 2, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY: *Summary of Application:* Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

Applicants: MarketShares ETF Trust (''Trust''), Salient Capital Advisors, LLC (''Initial Adviser''), and Salient Indexes, LLC (''Affiliated Index Provider'').

DATES: *Filing Dates:* The application was filed on September 5, 2014, and amended on March 26, 2014, and May 23, 2014.

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 June 25, 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: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, 4265 San Felipe, Suite 800, Houston, Texas 77027.

FOR FURTHER INFORMATION CONTACT: Steven I. Amchan, Senior Counsel, at (202) 551–6826, or Dalia Osman Blass, Assistant Chief Counsel, 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 Trust is a statutory trust organized under the laws of Delaware. The Trust is registered under the Act as an open-end management investment company with multiple series. The initial series of the Trust (''Initial Fund'') will be a Self-Indexing Fund (as defined below).

2. The Initial Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and will be the investment adviser to the Funds. Any other Adviser (defined below) also will be registered as an investment adviser under the Advisers Act. The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Trust will enter into a distribution agreement with one or more distributors (each, a ''Distributor''). Each Distributor will be a broker-dealer (''Broker'') registered under the Securities Exchange Act of 1934 (the ''Exchange Act'') and will act as distributor and principal underwriter of one or more of the Funds. The Distributor of any Fund may be an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of that Fund's Adviser and/or Sub-Advisers.

No Distributor will be affiliated with any Exchange (defined below).

4. Applicants request that the order apply to the Initial Fund, as well as any additional series of the Trust and other open-end management investment companies, or series thereof, that may be created in the future (''Future Funds''), each of which will operate as an exchanged-traded fund (''ETF'') and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Future Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application. The Initial Fund and Future Funds, together, are the ''Funds.'' [1]

5. Each Fund will hold certain securities (''Portfolio Securities'') selected to correspond generally to the performance of its Underlying Index. Certain of the Funds will be based on Underlying Indexes that will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes that will be comprised of foreign and domestic, or solely foreign, equity and/or fixed income securities (''Foreign Funds'').

6. Applicants represent that each Fund will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities'') and TBA Transactions,[2] and in the case of Foreign Funds, Component Securities and Depositary Receipts [3] representing Component Securities. Each Fund may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

7. The Trust may issue Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index [4] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day, for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Fund's Portfolio Holdings (defined below) before the commencement of trading of Shares on the Listing Exchange (defined below).[5] The information provided on the Web site will be formatted to be reader-friendly.

8. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

9. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the Adviser, which will have a licensing agreement with such Index Provider.[6] A ''Self-Indexing Fund'' is a Fund for which an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'') [7] will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[8] Except with respect to the Self-Indexing Funds, no Index Provider is or will be an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount, and price. The actual pools delivered generally are determined two days prior to settlement date.

[3] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[4] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[5] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[6] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (or in case of a sub-licensing agreement, the Adviser) must provide the use of the Underlying Indexes and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[7] Currently Salient Indexes, LLC is the only entity that will serve as Affiliated Index Provider. Any future entity that acts as Affiliated Index Provider will comply with the terms and conditions of the application.

[8] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

10. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated.

11. Applicants propose that each day that a Fund, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'') on which the Fund's Shares are primarily listed (''Listing Exchange'') are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Self-Indexing Fund will post on its Web site, before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the portfolio securities, assets, and other positions held by the Fund that will form the basis for the Fund's calculation of its NAV at the end of the Business Day (''Portfolio Holdings''). In addition to the existing protections under the Act and the Advisers Act, Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will provide an effective additional mechanism for addressing these potential conflicts of interest.

12. In addition, Applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[9]

13. The Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, the Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the Adviser or an associated person (''Inside Information Policy''). Any Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [10] and Inside Information Policy of the Adviser and Sub-Advisers, personnel of those entities with knowledge about the composition of the Portfolio Deposit [11] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. The Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

14. To the extent the Self-Indexing Funds transact with an Affiliated Person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, the Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission. Applications for prior orders granted to Self-Indexing Funds have received relief to operate such funds on the basis discussed above.[12]

15. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[13] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) [14] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary

[9] *See, e.g.,* Rule 17j–1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)–7 under the Advisers Act.

[10] The Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j–1 (''Code of Ethics'').

[11] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the ''Portfolio Deposit.''

[12] *See, e.g.,* Guggenheim Funds Investment Advisors, LLC, Investment Company Act Release Nos. 30560 (June 14, 2013) (notice) and 30598 (July 10, 2013) (order); Sigma Investment Advisors, LLC, Investment Company Act Release Nos. 30559 (June 14, 2013) (notice) and 30597 (July 10, 2013) (order).

[13] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[14] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

to eliminate fractional shares or lots that are not tradeable round lots; [15] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind [16] will be excluded from the Deposit Instruments and the Redemption Instruments; [17] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio; [18] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

16. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; [19] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[20]

17. Creation Units will consist of specified large aggregations of Shares, e.g., at least 25,000 Shares. Applicants expect that the initial price of a Creation Unit will range from $750,000 to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' i.e., a broker-dealer or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

18. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

19. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[21] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

20. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving

[15] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[16] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[17] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[18] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

[19] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[20] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[21] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

21. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[22] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

22. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

23. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a

[22] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for underlying foreign Portfolio Securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fifteen (15) calendar days.[23] Accordingly, with respect to Foreign Funds only, Applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fifteen (15) calendar days following the tender of Creation Units for redemption.[24]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fifteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fifteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such 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 other broker-dealer 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 voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser, and not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[25] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, 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 Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the 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 a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an 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, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated

[23] Certain countries in which a Fund may invest have historically had settlement periods of up to fifteen (15) calendar days.

[24] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations Applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

[25] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[26]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no 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 to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

Sections 17(a)(1) and (2) of the Act

19. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''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 the 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. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

20. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

21. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Securities currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to Applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Securities held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of Applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, Applicants submit that, by using the same standards for valuing Portfolio Securities held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

[26] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

22. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[27] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[28] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's Portfolio Holdings.

6. No Adviser or any Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for a Fund through a transaction in which the Fund could not engage directly.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a 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 a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of Section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–l under the Act) received from a Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid

[27] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from Section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from Section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[28] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by Section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

to the Fund of Funds Adviser, trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board 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 Fund. The Board will consider, among other things: (i) whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) 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 (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board 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 interest of shareholders of the Fund.

8. Each Fund will 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 will maintain and preserve for a period of 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 Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, 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 a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF 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.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of an 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 to the extent the Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund to acquire securities of one or more investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–13153 Filed 6–5–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72297; File No. SR–ICEEU–2014–06]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Regarding Investment Losses and Non-Default Losses

June 2, 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 May 30, 2014, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. 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 principal purpose of the proposed changes is to amend the ICE Clear Europe Clearing Rules to address investment losses and non-default losses (as described in more detail below) that may affect the clearing house.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ICE Clear Europe submitted proposed amendments to its Rules in order to adopt new provisions relating to certain investment losses on margin and guaranty fund contributions provided by clearing members (as defined more fully below, ''investment losses'') as well as other losses to the clearing house arising other than from a clearing member default (as defined more fully below, ''non-default losses''), including losses from general business risk and operational risk. The amendments would (i) require ICE Clear Europe to apply a specified amount of its own assets to cover non-default losses and investment losses (''loss assets'') and (ii) require clearing members in all product categories to make contributions (referred to as ''collateral offset obligations'') to cover investment losses (but not other non-default losses) that exceed the available clearing house loss assets. The proposed rules would also limit the clearing house's liability for losses arising from a failure of a bank or similar custodian.

The Bank of England has indicated that ICE Clear Europe will be required to have rules addressing the allocation of non-default losses that threaten the clearing house's solvency and to have plans to maintain continuity of services if such continuity is threatened as a result of such losses, commencing May 1, 2014. Plans to address losses from general business risk are also an element of the CPSS–IOSCO Principles for Financial Market Infrastructures (the ''PFMIs'').[3] The amendments are separate from the clearing house's existing rules and planned rule changes that address allocation of losses resulting from clearing member defaults and related recovery and wind-down plans.

The proposed Rule amendments are described in detail as follows.

Part 1 of the Rules has been revised to include new definitions for ''Investment Losses'' and ''Non-Default Losses,'' which form the basis of the new loss allocation provisions in the proposed rules. Investment Losses means losses incurred or suffered by the clearing house arising in connection with the default of the issuer of any instrument and/or counterparty to any repurchase or reverse repurchase contract or similar transaction in respect of investment or reinvestment by the clearing house of margin (other than variation margin) or guaranty fund contributions other than a loss resulting from the clearing house's failure to follow its own investment policies. By way of clarification, investment losses will be allocated separately from losses arising from a default, and accordingly, an investment loss relating to margin or guaranty fund contributions provided by a defaulting clearing member will be included in the calculation of investment losses. (The amount of investment losses will thus not be reduced by any amounts ICE Clear Europe may use from its default resources under Parts 9 and 11 of the Rules (including guaranty fund contributions or assessments) to address losses from a default). In addition, Investment Losses do not include custodial losses.

''Non-Default Losses'' means losses suffered by the clearing house (other than Investment Losses) arising in connection with any event other than an event of default and which threaten the solvency of the clearing house. In addition, a new definition for ''Collateral Offset Obligations'' has been added, which refers to obligations of a clearing member arising pursuant to new Rule 919, as discussed below, to make payments to the clearing house in respect of Investment Losses, which offset obligations of the clearing house to pay the clearing member or return assets in respect of margin provided to the clearing house by the clearing member. New definitions for ''Custodian'' (which is used in new Rule 919), and ''Loss Assets'' (assets of the clearing house itself that are intended to be applied to investment losses and non-default losses under Rule 919 as described below) have been added.

In Rules 111 and 905, conforming and clarifying changes to the description of various types of losses or liabilities that may be borne by the clearing house have been made, through addition of references to ''claims'' and ''shortfalls,'' in order to ensure consistent use of language throughout Rules where other references are made to losses.

The proposed changes would adopt new Rule 919, which includes the allocation rules for investment losses and non-default losses and procedures for applying collateral offset obligations. Under Rule 919(b), non-default losses will be satisfied by applying the available loss assets designated by the clearing house and then other available capital or assets of the clearing house. Investment losses, on the other hand, will first be satisfied by applying the available loss assets provided by the clearing house, and thereafter by collateral offset obligations as discussed herein. The amount of loss assets provided by ICE Clear Europe will initially be USD 90 million (pursuant to Rule 919(p)), subject to adjustment by the clearing house by circular from time to time. ICE Clear Europe will not have an obligation to replenish the amount of loss assets, if applied to non-default losses or investment losses.

Pursuant to Rule 919(c), if there is an investment loss in an amount greater than the then-available loss assets, all clearing members will be required to indemnify the clearing house and pay collateral offset obligations to the clearing house in accordance with Rule 919(d). The clearing house will publish a circular including certain required details of any investment loss and collateral offset obligations due. The amount of such payment is determined pursuant to Rule 919(d), and is based on the proportion of a clearing member's aggregate initial margin and guaranty fund contributions (for all product categories) to the aggregate initial margin and guaranty fund contributions of all clearing members (for all product categories) (in any case other than margin and contributions of defaulting clearing members that are applied or included in the net sum calculation under the Rules as a result of the default). Under Rule 919(e), the collateral offset obligation of a clearing member shall not exceed the total of all initial margin and guaranty fund contributions (across all accounts and product categories) that it has deposited with the clearing house at the time of the event giving rise to the investment loss. To the extent the investment losses exceed the amount of available loss assets and the capped collateral offset obligations of clearing members, clearing members would not have

[3] We also note in this regard that the Commodity Futures Trading Commission has adopted a similar requirement for systemically important derivatives clearing organizations and ''subpart C'' derivatives clearing organizations in CFTC Rule 39.33(b)(2), and that the Commission has proposed a similar requirement for certain ''covered clearing agencies'' in proposed Rule 17Ad–22(e)(15). Standards for Covered Clearing Agencies, Release No. 34–71699 (Mar. 12, 2014).

further obligations to make payments to the clearing house in respect thereof.

Collateral offset obligations are due at the time specified by the clearing house, under Rule 919(f), and will be payable in accordance with the procedures for collection of margin under Rule 302 and the Finance Procedures. Collateral offset obligations may, at the election of the clearing house, be offset against the obligation of the clearing house to return initial margin or guaranty fund contributions, and will be collected pursuant to a call for margin from a proprietary account of the clearing member. (In the case of a defaulting clearing member, the clearing house may include the collateral offset obligation in any net sum (to reduce any net sum otherwise payable to the defaulting clearing member) or offset it against any other obligation of the clearing house to return any remaining margin or guaranty fund contributions after application in respect of the default). Collection of the collateral offset obligation from the proprietary account of a clearing member is not intended to preclude a clearing member from passing the cost of the collateral offset obligation to its Customer(s), to the extent the obligation relates to customer account margin or otherwise to a customer and to the extent permitted by applicable law.

If the clearing house subsequently recovers amounts in respect of an investment loss, Rule 919(h) provides for allocating the recovery to clearing members on a pro rata basis in proportion to their collateral offset obligations satisfied (after repaying the clearing house for any of its own assets applied in excess of the loss assets or any other persons for their assets applied).

Pursuant to Rules 919(i), the obligation of a clearing member to make collateral offset obligations is separate from, and does not reduce, its obligation to provide margin and to make guaranty fund contributions or guaranty fund assessment contributions under the existing rules. Under Rule 919(j), if the clearing house calls for collateral offset obligations in excess of that actually required, it will credit the excess to the relevant clearing members' proprietary accounts, from which it may be withdrawn in accordance with the usual procedure for withdrawal of excess margin under Part 3 of the Rules.

Rule 919(k) provides that the obligation to provide collateral offset obligations under Rule 919 applies independently from the powers of assessment following clearing member defaults in other parts of the Rules, and notes for clarification that the limits on assessment in Rules 917 and 918 for the F&O and FX product categories do not affect the liability of clearing members for collateral offset obligations. Rule 919(l) clarifies that the exercise of rights under Rule 919 does not constitute a Clearing House Event (i.e., a payment default or insolvency of the clearing house). Rule 919(m) provides for payments of collateral offset obligations to be made in accordance with the general procedures for payments under Part 3 of the Rules and the Finance Procedures, subject to the clearing house's setoff and netting rights under the Rules.

Under Rule 919(n), the clearing house is not required to pursue any litigation or other action against any person in respect of unpaid amounts (including those representing an investment loss or non-default loss). As discussed above, to the extent the clearing house recovers amounts in respect of an investment loss, Rule 919(h) provides for allocating such recovery to clearing members that have paid collateral offset obligations. Rule 919(o) allows the clearing house to make currency conversions in making determinations under Rule 919.

As discussed above, Rule 919(p) establishes the initial level of loss assets at USD 90 million. The clearing house may change the level of loss assets from time to time by Circular. Pursuant to Rule 919(q), ICE Clear Europe must notify clearing members of the amount of loss assets used from time to time. The clearing house is not required to replenish the amount of loss assets if used, although it may elect to do so. Separately, Rule 919(q) also provides that the clearing house may replenish any regulatory capital as required to bring it in compliance with applicable laws at any time, including following an investment loss or other non-default loss. However, no such recapitalization will result in any obligation of any clearing member to pay collateral offset obligations, or the size of any investment loss, being reduced. In addition, replenishment of required regulatory capital does not in itself require, or result in, a replenishment of loss assets.

Under Rule 919(r), the clearing house is not liable to any clearing member, customer or any other person for losses arising from a failure of a payment or security services provider, including a Custodian such as a payment or custody bank, securities depository or securities settlement system.

Other related changes are made in Parts 11, 12 and 16 of the Rules. A change is made in Rule 1103(e) to allow the loss assets to be held together with other clearing house contributions to the guaranty fund (without affecting the limitations in the existing rules and Rule 919 on the use of such assets). (As a result of this change, each clearing house contribution is no longer required to be held in a separate account, although the three clearing house guaranty fund contributions and the loss assets are required to be held separately from other clearing house assets.) Conforming changes to definitions relating to custodians are made in Rule 1201.

New Rule 1606(b) is added to address certain matters relating to the investment of customer collateral in the form of cash provided by FCM/BD Clearing Members under applicable CFTC regulations. The revised rule confirms that such cash can only be invested in U.S. treasury securities in accordance with applicable law. The rule further provides that FCM/BD Clearing Members must direct the clearing house whether to so invest such cash or to leave it uninvested (and deems the clearing member to have instructed the clearing house to invest such collateral if it does not provide direction).

ICE Clear Europe believes that the proposed rule changes are consistent with the requirements of Section 17A of the Act [4] and the regulations thereunder applicable to it, including the standards under Rule 17Ad–22.[5] Section 17A(b)(3)(F) of the Act [6] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. Neither Section 17A of the Act [7] nor Rule 17Ad–22 [8] specifically addresses non-default losses of the type contemplated by the proposed rules. Nonetheless, ICE Clear Europe believes that the proposed rule changes are consistent with the Act and the regulations thereunder applicable to ICE Clear Europe, in particular, Section 17(A)(b)(3)(F),[9] because ICE Clear Europe believes that the new rules will enhance the clearing house's ability to bear such losses. This will in turn further the clearing house's ability to continue operations if faced by investment or non-default losses, which will facilitate prompt and accurate settlement of securities transactions and, to the extent applicable, derivative

[4] 15 U.S.C. 78q–1.

[5] 17 CFR 240.17Ad–22.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 17 CFR 240.17Ad–22.

[9] 15 U.S.C. 78q–1(b)(3)(F).

agreements, contracts and transactions and contribute to the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible, as set forth herein.

ICE Clear Europe has developed the proposed rules to satisfy paragraphs 29A and 29B under the UK's Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001, Schedule, as inserted by the Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) (No. 2) Regulations 2013. Rules addressing allocation of investment and non-default losses are also contemplated under the PFMIs. Consistent with these requirements, the proposed rules are designed to allocate investment losses (i.e., losses from a default under an investment) to the clearing house and clearing members, while other non-default losses (i.e., other losses not resulting from clearing member default) are allocated only to the clearing house. The rules further limit the liability of the clearing house for losses resulting from a failure of a Custodian—losses that are outside of the control of the clearing house but which could threaten the solvency of the clearing house. ICE Clear Europe does not expect that these rules will affect the ordinary course operation of the clearing house or its existing protections for the securities and funds in its custody or control or for which it is responsible. ICE Clear Europe believes that the proposed rule changes will enhance the stability of ICE Clear Europe if it experiences significant investment losses or non-default losses, by providing new resources to cover such losses. The proposed rules will also provide greater certainty for clearing members and the clearing house itself as to the scope of resources that will be available to cover such losses and the liability of the clearing house and clearing members for such losses. Taken together, the amendments will thus promote the prompt and accurate clearance and settlement of contracts cleared by ICE Clear Europe, consistent with the requirements of Section 17A(b)(3)(F).[10]

The amendments also are consistent with the relevant requirements of Rule 17Ad–22, and in particular the financial resources requirements of Rule 17Ad–22(b)(2–3).[11] ICE Clear Europe does not propose to change the amount of financial resources (both pre-funded resources and potential assessment resources) currently available to support its clearing operations in any product category. The amendments would provide an additional financial resource to address investment losses and non-default losses. In addition, ICE Clear Europe believes that the changes will enhance its ability to continue clearing operations following an investment loss or non-default loss and provide it and market participants with greater certainty as to the financial resources that will be available to the clearing house following such losses.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule changes would have any material impact, or impose any material burden, on competition not necessary or appropriate in furtherance of the purposes of the Act.

The rule amendments will by definition impose additional potential costs on clearing members in investment loss scenarios, as they may be required to make collateral offset obligations, up to the defined maximum amount. The limitation on liability for custodial losses may also impose costs on clearing members. As discussed above, ICE believes this approach is warranted in light of the need to allocate such losses and implement recovery and wind-down plans as a result of such losses, as required under applicable UK legislation. Moreover, ICE Clear Europe does not believe these costs are likely to have a material impact on the ordinary course operation of the clearing house, as they are relevant only under extreme non-default loss scenarios where the alternative could be clearinghouse failure or insolvency.

In terms of access to the clearing house, ICE Clear Europe is not proposing to change its standards for clearing membership or financial requirements for clearing membership. As such, ICE Clear Europe does not believe the changes will reduce access by clearing members to the clearing house. While there will be additional potential costs for clearing members, the limit on collateral offset obligations is intended to provide clearing members with greater certainty as to the extent of their financial obligations to the clearinghouse, and to limit their maximum potential liability. As a result, the amendments may make it easier for some market participants to become members, and a failure to adopt the amendments could, in ICE Clear Europe's view, dissuade some market participants from being members. As a result, ICE Clear Europe does not believe the amendments will reduce clearing member access to the clearing house. In addition, ICE Clear Europe does not believe the proposed amendments are likely to adversely affect competition among clearing members. The proposed rules will apply to all clearing members in the same way. Enhanced certainty, and greater stability of the clearing house in the event of non-default losses, may also benefit the market for cleared derivatives generally, which in turn may enhance competition.

In terms of the impact on customers of clearing members, it is possible that the added costs to clearing members of potential collateral offset obligations, and the limitation on liability for custodial losses, will result in higher costs for customers in some circumstances. As with the costs on clearing members themselves, ICE Clear Europe believes that the proposed rule changes are warranted in light of the UK requirements to allocate investment and non-default losses, and benefits of enhanced financial resources and stability for the clearing house. In addition, ICE Clear Europe does not believe that the potential additional costs will have a significant burden on competition, as they apply to all clearing members equally.

ICE Clear Europe also does not believe the rule amendments will adversely affect the ability of market participants to continue to clear transactions or otherwise limit market participants' choices for clearing transactions. ICE Clear Europe expects that, in light of the PFMIs and applicable regulatory requirements in the US and EU, other clearing organizations will similarly need to develop procedures for addressing non-default losses. The rule amendments are intended to provide a stronger framework for the clearing house to deal with non-default loss events and keep clearing services in operation despite such losses. This should generally enhance the ability of market participants to continue to clear derivative products, reduce systemic effects on the cleared markets generally and reduce the risk of failure of a clearinghouse (which would generally be expected to have an adverse impact on competition). To the extent market participants have greater certainty as to how investment and non-default losses would be handled by the clearing house, they may have greater confidence in clearing generally, which will also tend to enhance the stability and strength of the market for cleared products, consistent with the goals of the Act.

For the foregoing reasons, the proposed rules are, in ICE Clear

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 17 CFR 240.17Ad–22(b)(2)–(3).

Europe's view, appropriate in furtherance of the purposes of the Act and other legal requirements applicable to ICE Clear Europe. The clearing house does not believe that the proposed amendments will impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments relating to the rule changes were solicited from clearing members by Circular No. C14/056 (May 2, 2014). ICE Clear Europe has received comments from the Futures Industry Association and comments provided on behalf of various clearing members. These comments raised certain objections to the proposed rules, including that (i) allocation of investment losses in respect of an FCM customer account is inconsistent with CFTC Rule 1.29(b), (ii) allocation of investment losses would create undue and potentially unlimited and unquantifiable risk to clearing members, (iii) the proposed rules lack a formula for determining the amount of loss assets provided by ICE Clear Europe, and should require that ICE Clear Europe replenish the loss assets, (iv) collateral offset obligations should not be netted against unrelated payment obligations of ICE Clear Europe, (v) loss assets should not be used for both investment losses and non-default losses, (vi) the loss assets and ICE contributions to the guaranty funds should each be held in a separate account, (vii) the manner of allocation of investment losses attempts should be revised, including to allocate investment losses between customer accounts and proprietary accounts, based on product categories, and/or based on cash margin rather than total margin.

ICE Clear Europe has considered and disagrees with these comments. Specifically, ICE Clear Europe believes that in light of the provisions of proposed Rule 1606(b), the allocation of investment losses in respect of the FCM customer account is consistent with the requirements of CFTC Rule 1.29(b), and further that because of the cap on collateral offset obligations in Rule 919(e), the liability for collateral offset obligations is neither unlimited nor unquantifiable. ICE Clear Europe does not believe a defined formula for loss assets is necessary. In ICE Clear Europe's view, the proposed rule provides a significant additional resource to cover investment losses and non-default losses as compared to the current rules. For this reason, ICE Clear Europe does not believe it is necessary to provide separate resources for non-default losses and investment losses, or to have an obligation to replenish such assets or otherwise provide even more resources. Netting under Rule 919(f) would apply to obligations to return margin or guaranty fund contributions, which are not unrelated to investment losses, and in ICE Clear Europe's view is appropriate with a view to reducing unnecessary payment flows. ICE Clear Europe further does not believe it is necessary for loss assets and ICE Clear Europe guaranty fund contributions to be held in separate accounts, given that such amounts are kept separate from amounts provided by clearing members and the limitations on the use of such amounts are unchanged. In light of the limited scenarios in which the loss allocation rules of Rule 919 are expected to be used, and the fact that a loss may not be readily allocable to any particular clearing member, customer or product category, ICE Clear Europe does not believe it is desirable to attempt to allocate losses between customer and proprietary accounts, or to particular product categories. ICE Clear Europe further believes that allocating based on overall initial margin and guaranty fund contributions is an efficient and equitable means of allocating the losses.

ICE Clear Europe notes that certain comments also suggested that ICE Clear Europe provide additional information and transparency concerning its investment policies. ICE Clear Europe is continuing to consider such changes, in consultation with clearing members, although it does not believe such changes would affect the proposed rules.

ICE Clear Europe will notify the Commission of any additional written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2014–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2014–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the 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 filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/notices/Notices.shtml?regulatoryFilings*.

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–ICEEU–2014–06 and should be submitted on or before June 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–13152 Filed 6–5–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72291; File No. SR–MIAX–2014–20]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 519, MIAX Order Monitor

June 2, 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 May 22, 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, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 519. 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 proposes to amend Rule 519, MIAX Order Monitor, to provide details regarding order size protections. The proposal codifies existing functionality applicable to orders on the Exchange.

Currently, Rule 519 only provides details regarding the System's order price protections. However, in addition to order protections based on price, the System also employs order protections based on size. The Exchange now proposes to codify these existing order size protections into Rule 519. Specifically, the Exchange proposes to provide that the System prevents certain orders from executing or being placed on the Book if the size of the order exceeds the order size protection designated by the Member. Members may designate or disable the order size protection on a firm wide basis. The default maximum size of orders are determined by the Exchange and announced to Members through a Regulatory Circular.[3] The order size protections provide market participants the flexibility to designate the level of protection they need to help prevent the potential submission of erroneously sized orders on the Exchange. The proposed change is designed to protect investors and the public interest by codifying the order size protections that apply to orders that help market participants avoid the potential submission of erroneously sized orders on the Exchange. In addition, the Exchange believes that the proposed amendment removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by helping to eliminate potential confusion on behalf of market participants by clearly stating the System's functionality with regard to orders that trigger order size protections.

The Exchange also proposes several technical changes to enable the incorporation of the order size protections into the Rules alongside the existing order price protections, including changing a citation in Rule 530.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b)[4] of the Act in general, and furthers the objectives of Section 6(b)(5)[5] 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 proposed change is designed to protect investors and the public interest by codifying the order size protections that apply to orders that help market participants avoid the potential submission of erroneously sized orders on the Exchange. In addition, the Exchange believes that the proposed amendment removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by helping to eliminate potential confusion on behalf of market participants by clearly stating the System's functionality with regard to orders that trigger order size protections.

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 the proposed changes will not impose any burden on intra-market competition because it applies to all MIAX participants equally. In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal is intended to protect investors by providing further transparency regarding the Exchange's order size protections.

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.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] The Exchange notes that the current default maximum size of orders is 10,000. However, Members may designate a maximum order size on a firm wide basis from 0 to 999,999.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [6] and Rule 19b–4(f)(6) [7] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–2014–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2014–20. 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–2014–20 and should be submitted on or before June 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–13107 Filed 6–5–14; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72292; File No. SR–EDGX–2014–13]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Order Approving Proposed Rule Change To Amend Footnote 4 of the Exchange's Fee Schedule To Permit Members To Designate Their Retail Orders To Be Identified as Retail on the EDGX Book Feed

June 2, 2014.

I. Introduction

On April 17, 2014, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to permit EDGX Members [3] to identify their retail orders as ''retail'' on the EDGX Book Feed (the ''Proposal''). The Proposal was published for comment in the **Federal Register** on April 30, 2014.[4] The Commission received no comments on the Proposal. This order approves the Proposal.

II. Description of the Proposal

Currently, EDGX Members may submit their Orders as Non-Attributable Orders [5] or Attributable Orders.[6] If a Member choses to submit an order as Attributable, the Exchange includes the Member's market participant identifier (''MPID'') with that Member's published quotations on the EDGX Book Feed.

In the Proposal, the Exchange proposes to amend Footnote 4 of its Fee Schedule to permit Members to designate that their Attributable Retail Orders be identified as ''Retail'' [7] on the EDGX Book Feed, rather than by their MPID.[8] Under the Proposal, a Member may elect that their Retail Orders be identified as Retail on an order-by-order basis or instruct the Exchange to identify all of the Member's Retail Orders as Retail on a port-by-port basis where that port is also designated as a Retail Order Port.[9] The Exchange will

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Member is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* EDGX Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 72016 (April 24, 2014), 79 FR 24463 (''Notice'').

[5] A Non-Attributable Order is defined as ''[a]n order that is designated for display (price and size) on an anonymous basis by the Exchange. *See* EDGX Rule 11.5(c)(19).

[6] An Attributable Order is defined as, ''[a]n order that is designated for display (price and size) including the Member's market participant identifier ('MPID').'' *See* EDGX Rule 11.5(c)(18).

[7] Footnote 4 of the Exchange's Fee Schedule defines a ''Retail Order'' as (i) an agency order or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person; (ii) is submitted to EDGX by a Member, provided that no change is made to the terms of the order; and (iii) the order does not originate from a trading algorithm or any other computerized methodology. Footnote 4 of the Exchange's Fee Schedule also provides that Members may designate orders as Retail Orders on an order-by-order basis or a port level basis by designating particular FIX ports as Retail Order Ports. Members must submit a signed written attestation, in a form prescribed by the Exchange, that they have implemented policies and procedures that are reasonably designed to ensure that substantially all orders designated by the Member as a ''Retail Order'' comply with the above requirements. *See* Footnote 4 of the Exchange's Fee Schedule available at *http://www.directedge.com/Trading/EDGXFeeSchedule.aspx.*

[8] If a Member instructs the Exchange to identify all its orders on a Retail Order Port as Retail, the Member will not be able to designate any Retail Order from that port instead as an Attributable Order or as a Non-Attributable Order. *See* Notice, 79 FR at 24464.

[9] A Member's decision on whether to identify their Retail Order as Retail under the proposed rule

announce the effective date of the Proposal in a Trading Notice to be published no later than 30 days following approval of the Proposal by the Commission.[10]

III. Discussion

After careful review, the Commission finds that the Proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.[11] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[12] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

The Commission believes that the Proposal is consistent with the Act because it is reasonably designed to promote market transparency and to encourage increased liquidity. Specifically, the Commission notes that, according to the Exchange, members who may otherwise choose to designate their order as Non-Attributable, and thereby not include their MPID with their published quote on the EDGX Book Feed, would choose to designate their orders as Retail. Identifying additional orders as Retail Orders may encourage Members who wish to execute against Retail Orders to send additional Orders to the Exchange,[13] thereby potentially increasing the level of competition around retail executions, resulting in better prices for retail investors.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–EDGX–2014–13), is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

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change will not impact that Member's eligibility to qualify for a rebate under the Retail Order Tier included in Footnote 4 of the Exchange's Fee Schedule. *See* Notice, 79 FR at 24464.

[10] *See* Notice, 79 FR at 24464.

[11] 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

[13] The Exchange notes that it conducted a study of its execution data from January 1, 2014 to March 31, 2014, which indicated that Members who represent Retail Orders and utilize Attributable Orders to include their MPID with their published quote on the EDGX Book Feed received an 18% higher execution rate than Members who represent Retail Orders that elected not to include their MPID on the EDGX Book Feed via the use of a Non-Attributable Order. *See* Notice, 79 FR at 24464.

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72288; File No. SR–MIAX–2014–17]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rules 515, 519 and 529

June 2, 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 May 20, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rules 515, 519 and 529.

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently amended Rules 515 and 529 to establish a new price protection for market participants and to allow for immediate routing in an additional situation.[3] The Exchange has identified several additional enhancements to the price protections that the Exchange believes should be included in the rules prior to deployment of the new price protection functionality. The Exchange proposes to amend Exchange Rules 515, 519 and 529 accordingly.

The Exchange proposes to amend Rule 515(c)(2) to provide that at the end of a liquidity refresh pause timer the initiating order and any same side joiners received during the timer will trade against the opposite side interest in the order in which they were received at multiple price points up to the current NBBO. Currently, Rule 515(c) provides that at the end of a liquidity refresh timer that all orders and quotes that were not completely filled or cancelled would be reevaluated for execution pursuant to Rule 515. The current language does not contemplate executions at the end of the liquidity refresh pause at multiple price points but only at the original NBBO price provided that it does not trade inferior to the current NBBO. Under the current language, executions at multiple price points would only be possible through the iterative reevaluation process described in Rule 515. The Exchange believes that the current language is unnecessarily restrictive for executions at the end of a liquidity refresh pause given that Rule 515 now provides for executions at multiple price points. The

[3] *See* Securities Exchange Act Release Nos. 71634 (February 28, 2014), 79 FR 12713 (March 6, 2014) (SR–MIAX–2014–08); 71968 (April 17, 2014), 79 FR 22749 (April 23, 2014) (SR–MIAX–2014–08).

Exchange believes that allowing the initiating order and any same side joiners received during the timer to trade against the opposite side interest (*i.e.,* AOC responses) at multiple price points up to the current NBBO, will provide greater opportunities for executions while still keeping in place the overall level of protections provided by the new multiple variable price protections in Rule 515. The Exchange notes that executions would still have to be bound by the current NBBO; and unexecuted orders and quotes would still be subject to the iterative reevaluation process in Rule 515.

The Exchange also proposes new Interpretations and Policies .03 to Rule 515 to provide that the System will cap individual responses received during a liquidity refresh pause timer on the opposite side from an the initiating order to the size of the initiating order and any same side joiners received during the liquidity refresh pause timer for purposes of pro-rata allocation against the initiating order and any same side joining interest received during the liquidity refresh pause. Capping the size of responses for purposes of pro-rata allocation is designed to reduce the possibility of gaming the allocation through the submission of an oversized order. The current Rule is silent on how the allocation will occur in the situation of an oversized response during a liquidity refresh pause. The Exchange believes that adding the additional language regarding a cap applied to individual responses will help clarify the allocation of executions at the end of the liquidity refresh pause so that market participants more clearly understand the treatment of their orders and quotes during the liquidity refresh pause and also help reduce fraudulent and manipulative acts by market participants to alter the pro-rata allocation.

Similarly, the Exchange proposes new Interpretations and Policies .01 to Rule 529 to provide that the System will cap individual responses received during a route timer on the opposite side from an the initiating order to the size of the initiating order, managed interest, and any same side joiners received during the route timer for purposes of pro-rata allocation against the initiating order, managed interest, and any same side joining interest received during the route timer. As stated above, capping the size of responses for purposes of pro-rata allocation is designed to reduce the possibility of gaming the allocation through the submission of an oversized order. The current Rule is silent on how the allocation will occur in the situation of an oversized response during a route timer. The Exchange believes that adding the additional language regarding a cap applied to individual responses will help clarify the allocation of executions at the end of the route timer so that market participants more clearly understand the treatment of their orders and quotes during the route timer and also help reduce fraudulent and manipulative acts by market participants to alter the pro-rata allocation.

The Exchange also proposes to amend Rule 519 to extend the MIAX Order Monitor protections for market orders to sell to orders subject to reevaluation pursuant to Rule 515. Currently, the MIAX Order Monitor protections only apply to orders upon initial receipt in order to avoid the occurrence of potential obvious or catastrophic errors on the Exchange. For market orders to sell, the Exchange proposed to provide that both upon initial receipt and reevaluation that a market order to sell an option when the national best bid is zero and the Exchange's disseminated offer is equal to or less than $0.10, the System will convert the market order to sell to a limit order to sell with a limit price of one Minimum Trading Increment. In this case, such sell orders will automatically be placed on the Book in time priority and will be displayed at the appropriate Minimum Price Variation. Separately, if the Exchange upon initial receipt or reevaluation evaluates a market order to sell an option when the national best bid is zero and the national best offer is greater than $0.10, the System will cancel the market order to sell. The proposed change is designed to protect investors and the public interest by extending the protections for sell market orders that apply currently only upon receipt to when such orders are reevaluated pursuant to the new multiple variable price protections in Rule 515.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) [4] of the Act in general, and furthers the objectives of Section 6(b)(5) [5] 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 proposal to allow the trading at multiple price points up to the current NBBO at the end of the liquidity refresh pause timer will provide greater opportunities for executions while still keeping in place the overall level of protections provided by the new multiple variable price protections in Rule 515 in a manner that promotes the protection of investors and the public interest. The Exchange believes that adding the additional language regarding a cap applied to individual responses will help clarify the allocation of executions at the end of the liquidity refresh pause timer and the route timer so that market participants more clearly understand the treatment of their orders and quotes during such timers and also help reduce fraudulent and manipulative acts by market participants to alter the pro-rata allocation.

The proposed change to extend the MIAX Order Monitor protections for sell market orders subject to reevaluation is designed to promote just and equitable principles of trade by extending the protections for sell market orders that apply currently only upon receipt to when such orders are reevaluated pursuant to the new multiple variable price protections in Rule 515 in a manner that also promotes the protection of investors and the public interest.

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 the proposed changes will not impose any burden on intra-market competition because it applies to all MIAX participants equally. In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal is intended to protect investors by providing further enhancements and transparency regarding the Exchange's price protection functionality.

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.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [6] and Rule 19b–4(f)(6) thereunder.[7] 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [8] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[9] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because waiver would allow the Exchange to implement its new price protection functionality, which has already been subject to notice and comment and approved by the Commission, without further delay. Specifically, the current proposal extends MIAX's price protection and order monitor functionality to additional trading processes and also applies MIAX's cap on responses for purposes of pro rata allocation to the route timer and liquidity refresh pause timer in a manner that does not raise new or novel issues and should facilitate executions on MIAX in a manner consistent with the protection of investors and the public interest. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.[10]

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend this rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2014–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2014–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of this 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 publicly available. All submissions should refer to File Number SR–MIAX–2014–17 and should be submitted on or before June 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–13105 Filed 6–5–14; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72294; File No. SR–OCC–2014–12]

Self-Regulatory Organization; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Make The Options Clearing Corporation's Existing Policy Concerning Specified Concentration Limits Related to Deposits of Certain Letters of Credit Applicable to All Letters of Credit

June 2, 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 May 20, 2014, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by OCC. 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

OCC proposes to amend Rule 604 in order to make OCC's existing policy concerning specified concentration limits related to deposits of certain letters of credit applicable to all letters of credit.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

The purpose of this proposed rule change is to make OCC's existing policy concerning concentrated margin deposits of certain issuers of letters of credit (''LC'') applicable to all LC issuers. Currently, OCC imposes concentration limits on clearing member margin deposits of LCs issued by certain non-U.S. institutions.[3] Specifically, OCC limits the concentration of a clearing member's margin deposits of LCs issued by such non-U.S. institutions to no more than 50% of a clearing member's total margin deposit at any given time, and no more than 20% of a clearing member's margin deposit may include an LC issued by any one of these non-U.S. institutions.[4]

OCC's Risk Committee recently requested a review of those aspects of OCC's risk management framework that are designed to mitigate the risks associated with accepting LCs for margin purposes, including the risk that an issuer of an LC will not honor its commitment to effect timely payment following an OCC demand therefor.[5] Such review identified two instances in which over 50% of a clearing member's total margin on deposit was satisfied by LCs. OCC's Risk Committee determined this level of exposure to LCs to be excessive. Therefore, OCC proposes to make the existing concentration limits related to the deposit of LCs, as set forth in OCC Rule 604, Interpretation and Policy .02, applicable to all margin deposits of LCs regardless of issuer. As a result of this change, no more than 50% of a clearing member's margin on deposit may include LCs and no more than 20% of a clearing member's margin may include an LC from a single issuer. This proposed change is intended to reduce OCC's overall credit risk exposure to LCs deposited as margin by a single clearing member and the potential adverse consequences should an LC issuer not perform upon its payment commitment after receiving a demand for payment.

OCC believes that the proposed change will have a minimal impact on its clearing members because LCs comprise less than one percent of OCC's total margin deposits and are currently used by only 13 clearing members. OCC estimates that the proposed change will impact three clearing members and .13% of OCC's total margin deposits. Each of these three clearing members has been advised of the proposed change and has indicated that it will be able to modify its margin deposit practices to reduce its LC deposits without undue difficulty. Moreover, OCC is not proposing to modify any of its other rules, policies or procedures concerning LCs.

Prior to implementation of this proposed rule change, OCC will publish an information memorandum to inform all clearing members of the proposed rule change. In addition, clearing members that are directly affected by the proposed rule change have been contacted regarding this filing and all clearing members (even if not directly affected by this proposal) will have access to information, as necessary, to better understand any potential impact the proposed rule change may have on their margin deposits at OCC.

2. Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[6] because it will assure the safeguarding of securities and funds which are in the custody and control of OCC. In addition, the proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions for which it is responsible. OCC believes that the proposed changes to its existing concentration limit policy for LCs, as described above, will reduce certain credit risks associated with the deposit by a clearing member of LCs as a form of margin asset and make it less likely that such margin asset would not be available to OCC should OCC need to use it to close-out positions of a defaulted clearing member. For the same reasons, the proposed rule change will promote confidence that OCC will be able to timely meet its settlement obligations because the changes to OCC's concentration limit policy for LCs will reduce the likelihood that a percentage of a defaulting clearing member's margin assets would not be available to OCC in the event of a clearing member default. The proposed rule change is not inconsistent with any rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC believes that the proposed rule change would impose a minimal burden on competition, and that such burden is appropriate in furtherance of the purposes of the Act.[7] As stated above, this proposed rule change affects certain clearing members who deposit LCs as a form of margin asset at OCC because they would be required to modify their business practices and potentially incur certain costs in doing so. However, OCC believes that any burden imposed upon such clearing members is necessary in furtherance of the purposes of the Act and is minimal in nature. The proposed rule change will reduce OCC's credit exposure to those clearing members who deposit LCs as a form of margin asset thereby better ensuring that OCC safeguards the securities and funds in OCC's custody and control as well as promoting the prompt and accurate clearance and settlement of securities transactions for which OCC is responsible. In addition, OCC believes that the proposed rule change will have a minimal impact on its clearing members. LCs comprise less than one percent of OCC's total margin deposits and OCC anticipates that the proposed rule change will impact three clearing members, each of which has indicated that it is able to comply with the change without undue difficulty. Moreover, clearing members are able to deposit a large variety of asset types to satisfy their margin requirement at OCC including, but not limited to, common stocks, government securities and money market funds.

For the foregoing reasons, OCC believes that the proposed rule change imposes a minimal burden on competition, but such burden is 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

[3] These concentration limits, however, are not currently applied to LCs issued by non-U.S. institutions that qualify as financial holding companies under Regulation Y or have an affiliate that is so qualified. In order to be deemed a financial holding company under Regulation Y, among other things, the institution must make certain certifications regarding the capitalization of the depository institutions controlled by the holding company. *See* OCC Rule 604, Interpretation and Policy .02. *See also* Securities Exchange Act Release No. 5037 (November 6, 2001), 66 FR 57143 (November 14, 2001) (SR–OCC–2001–03).

[4] *Id.*

[5] Pursuant to the terms of the LCs accepted by OCC as well as OCC's Rules, issuers of LCs are required to satisfy any demand for payment within sixty minutes after receipt of such demand. *See* OCC Rule 604(c)(1).

[6] 15 U.S.C. 78q-1(b)(3)(F).

[7] 15 U.S.C. 78q-1(b)(3)(I).

intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self- regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commissions 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–2014–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2014–12. 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 Section, 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 OCC and on OCC's Web site at *http://theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_14_12.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–2014–12 and should be submitted on or before June 27, 2014.

For the Commission by the Division of Trading and Markets, pursuant to delegated Authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–13203 Filed 6–5–14; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14007 and #14008]

NEBRASKA Disaster #NE–00057

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of NEBRASKA dated 05/30/2014.

Incident: Severe Weather and a Tornado.

Incident Period: 05/11/2014.

Effective Date: 05/30/2014.

Physical Loan Application Deadline Date: 07/29/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 03/02/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Seward.

Contiguous Counties:

Nebraska: Butler, Fillmore, Lancaster, Polk, Saline, York.

The Interest Rates are:

	Percent
For Physical Damages:	
Homeowners with Credit Available Elsewhere	4.375
Homeowners without Credit Available Elsewhere	2.188
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.625
Non-Profit Organizations without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14007 C and for economic injury is 14008 0.

The State which received an EIDL Declaration # is Nebraska.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 30, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–13106 Filed 6–5–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 8760]

30-Day Notice of Proposed Information Collection: Technology Security/Clearance Plans, Screening Records, and Non-Disclosure Agreements

ACTION: Notice of request for public comment and submission to the Office of Management and Budget of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 30 days for public comment.

DATES: Submit comments directly to OMB up to July 7, 2014.

ADDRESSES: Direct comments to the Department of State Desk Officer in the

Office of Information and Regulatory Affairs at OMB. You may submit comments by the following methods:

• *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

• *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information to Mr. Robert Hart, PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC, 20522–0112, who may be reached via phone at (202) 663–2918, or via email at *hartrl@state.gov.*

SUPPLEMENTARY INFORMATION:

• Title of Information Collection: *Technology Security/Clearance Plans, Screening Records, and Non-Disclosure Agreements Pursuant to 22 CFR 126.18.*

• OMB Control Number: *1405–0195.*

• Type of Request: *Extension of Currently Approved Collection.*

• Originating Office: *Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, PM/DDTC.*

• Form Number: *None.*

• Respondents: *Business and Nonprofit Organizations.*

• Estimated Number of Respondents: *100,000.*

• Estimated Number of Responses: *100,000.*

• Average Hours Per Response: *10 hours.*

• Total Estimated Burden: *1,000,000 hours.*

• Frequency: *On Occasion.*

• Obligation to Respond: *Mandatory.*

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public records. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The export, temporary import, and brokering of defense articles, defense services, and related technical data are licensed by the Directorate of Defense Trade Controls (DDTC) in accordance with the International Traffic in Arms Regulations (''ITAR,'' 22 CFR 120–130) and Section 38 of the Arms Export Control Act.

ITAR § 126.18 eliminates, subject to certain conditions, the requirement for an approval by DDTC of the transfer of unclassified defense articles, which includes technical data, within a foreign business entity, foreign governmental entity, or international organization, that is an approved or otherwise authorized end-user or consignee (including transfers to approved sub-licensees) for defense articles, including the transfer to dual nationals or third-country nationals who are bona fide regular employees directly employed by the foreign consignee or end-user.

To use ITAR § 126.18, effective procedures must be in place to prevent diversion to any destination, entity, or for purposes other than those authorized by the applicable export license or other authorization. Those conditions can be met by requiring a security clearance approved by the host nation government for its employees, or the end-user or consignee have in place a process to screen all its employees and to have executed a Non-Disclosure Agreement that provides assurances that the employee will not transfer any defense articles to persons or entities unless specifically authorized by the consignee or end-user. ITAR § 126.18 also provides that the technology security/clearance plan, screening records, and Non-Disclosure Agreements will be made available to DDTC or its agents for law enforcement purposes upon request.

Methodology: This information collection may be sent to the Directorate of Defense Trade Controls via the following methods: electronically or mail.

Dated: May 30, 2014.

C. Edward Peartree,

Office of Defense Trade Controls Policy, Bureau of Political-Military Affairs, U.S. Department of State.

[FR Doc. 2014–13221 Filed 6–5–14; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 8757]

Culturally Significant Object Imported for Exhibition Determinations: ''Titian's Danaë''

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 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the object to be included in the exhibition ''Titian's Danaë,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the National Gallery of Art, Washington, DC, from on or about July 1, 2014, until on or about November 2, 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 description of the imported object, 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: May 30, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–13222 Filed 6–5–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 8759]

Call for Reviewers of the World Ocean Assessment

ACTION: Notice of a certification.

SUMMARY: The U.S. Department of State, in coordination with the National Ocean

Council, requests expert review of the draft World Ocean Assessment.

The United Nations (UN) has embarked on a regular process for global reporting on, and assessment of, the state of the marine environment, including socioeconomic aspects, the product of which is called the World Ocean Assessment (WOA). The projected completion date for the first WOA is December 2014. Subsequent WOAs are expected to be generated every five years in order to document trends in the state of the marine environment. The WOA includes more than fifty subjects grouped within four main themes: marine environment and understanding of the ocean's role in the global integrated Earth system; food security and food safety; human activities that influence the ocean or are influenced by the ocean; and marine biological diversity. A scientific and technical summary will integrate content to show linkages through interdisciplinary subjects such as human impacts, ecosystem services, and habitats. More information regarding the evolution and methodology of the WOA can be found at *www.worldoceanassessment.org.*

This fall, UN Member States will have an opportunity to review the draft WOA, which is expected to be comprised of 50 chapters (approximately 15 pages each) and a 70-page technical summary; the *outline* illustrates the very wide range of expertise needed for such review. The Department of State invites experts in relevant fields of expertise to participate in the U.S. Government review of the draft WOA. Beginning on 1 August 2014, experts may register to review the draft WOA at *review.globalchange.gov*, a Web-based review and comment system. Registered experts will have access to the draft WOA on 2 September 2014 and will have until midnight 30 September 2014 to submit their review comments using the Web-based review and comment system. Detailed instructions for review and submission of comments are available at *review.globalchange.gov.*

A Review Coordination Team comprised of Federal scientists and program managers will develop a consolidated U.S. Government review submission. Only comments received via the Web-based review and comment system within the comment period will be considered by the Review Coordination Team for inclusion in the U.S. Government review submission.

This certification will be published in the **Federal Register**.

Dated: June 2, 2014.

Evan T. Bloom,

Director, Office of Ocean and Polar Affairs, U.S. Department of State.

[FR Doc. 2014–13224 Filed 6–5–14; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Notice of Availability of the Final Environmental Impact Statement for the SpaceX Texas Launch Site

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

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA; 42 United States Code [U.S.C.] 4321 et seq.), Council on Environmental Quality NEPA implementing regulations (40 Code of Federal Regulations parts 1500 to 1508), and FAA Order 1050.1E, Change 1, the FAA, Office of Commercial Space Transportation is announcing the availability of the *Final Environmental Impact Statement for the SpaceX Texas Launch Site* (Final EIS). This Final EIS is also submitted pursuant to the following public law requirements: Section 4(f) of the Department of Transportation Act (49 U.S.C. Section 303); Section 106 of the National Historic Preservation Act (16 U.S.C. 470); Executive Order 11988, *Floodplain Management;* DOT Order 5650.2, *Floodplain Management and Protection;* Executive Order 11990, *Protection of Wetlands;* and DOT Order 5660.1A, *Preservation of the Nation's Wetlands.* This Final EIS includes the FAA's determination of *de minimis* impacts to Section 4(f) property under 23 CFR 771.135. The Proposed Action would include a significant encroachment on floodplains per DOT Order 5650.2, *Floodplain Management and Protection.*

The FAA submitted the Final EIS to the U.S. Environmental Protection Agency (EPA). The EPA will post a separate notification in the **Federal Register** announcing the availability of the Final EIS. The FAA will issue a Record of Decision no sooner than 30 days following EPA's notice in the **Federal Register**. The Record of Decision will be published in the **Federal Register**.

An electronic version of the Final EIS is available on the FAA Web site: *http://www.faa.gov/about/office_org/headquarters_offices/ast/environmental/nepa_docs/review/documents_progress/spacex_texas_launch_site_environmental_impact_statement/.* In addition, copies of the Final EIS were sent to persons and agencies on the distribution list (found in Chapter 11 of the Final EIS). A paper copy and an electronic version of the Final EIS may be reviewed during regular business hours at the following Brownsville, Texas, locations:

- Brownsville Public Library Main Branch, 2600 Central Blvd.
- Southmost Branch Library, 4320 Southmost Blvd.
- University of Texas at Brownsville, Oliveira Library, 80 Fort Brown St.

FOR FURTHER INFORMATION CONTACT: Ms. Stacey M. Zee, Environmental Specialist, Federal Aviation Administration, Office of Commercial Space Transportation, 800 Independence Avenue SW., Suite 325, Washington, DC 20591; email *Stacey.Zee@faa.gov;* or phone (202) 267–9305.

SUPPLEMENTARY INFORMATION: The Final EIS for the proposed Space Exploration Technologies Corp. (SpaceX) Texas Launch Site evaluates the potential environmental impacts that may result from the FAA Proposed Action of issuing launch licenses and/or experimental permits that would allow SpaceX to launch the Falcon 9, Falcon Heavy, and a variety of reusable suborbital launch vehicles from a launch site on privately owned property in Cameron County, Texas. SpaceX would be required to apply to the FAA for the appropriate launch licenses and/or experimental permits. Under the Proposed Action, which is the Preferred Alternative, SpaceX proposes to construct a vertical launch area and a control center area to support up to 12 commercial launch operations per year with a maximum of two Falcon Heavy launches. Launch operations include not only launches, but also pre-flight activities such as mission rehearsals and static fire engine tests. The environmental analysis in the EIS focuses on proposed construction and operational activities associated with the FAA's Proposed Action (issuing launch licenses and/or experimental permits to SpaceX) and includes all related actions considered connected to the Proposed Action. Alternatives under consideration include the Proposed Action and the No Action Alternative. Under the No Action Alternative, the FAA would not issue licenses and/or experimental permits to SpaceX, and Space X would not construct the

proposed control center and vertical launch areas.

As part of the Proposed Action, SpaceX plans to construct facilities, structures, and utility connections in order to support the launch of the Falcon 9 and Falcon Heavy launch vehicles. The facilities would be located in two areas: vertical launch area and control center area. The proposed vertical launch area site is currently undeveloped and is located directly adjacent to the eastern terminus of Texas State Highway 4 (Boca Chica Boulevard) and approximately 3 miles north of the Mexican border on the Gulf Coast. It is located approximately 5 miles south of Port Isabel and South Padre Island. At the vertical launch area, the new facilities required would include an integration and processing hangar, a launch pad and stand with its associated flame duct, a water tower, a retention basin for deluge water, propellant storage and handling areas, a workshop and office area, and a warehouse for parts storage.

The command and control functions for a launch are required to be conducted at a safe separation distance from the actual launch pad. The control center area would be located inland, approximately 2 miles west of the vertical launch area and would include control center buildings, payload processing facilities, a launch vehicle processing hangar, generators and diesel storage facilities, and a satellite fuels storage facility. All facilities would be constructed through private funding, on currently undeveloped private property that would be purchased or leased by SpaceX. New underground power lines would be installed in the State Highway 4 Right-of-Way from the control center area to the vertical launch area. In addition, existing power lines that lead to Boca Chica Village would need to be upgraded. During this upgrade, the lines that are currently underground would remain underground, and lines that are currently aboveground would remain above ground.

Operations would consist of up to 12 launch operations per year with a maximum of two Falcon Heavy launches. All Falcon 9 and Falcon Heavy launches would be expected to have commercial payloads, including satellites or experimental payloads. In addition to standard payloads, the Falcon 9 and Falcon Heavy may also carry a capsule, such as the SpaceX Dragon capsule. All launch trajectories would be to the east over the Gulf of Mexico.

The Final EIS evaluates the direct, indirect, and cumulative environmental effects of the Proposed Action and No Action Alternative on environmental impact categories, including compatible land use (including farmlands and coastal resources); Section 4(f) properties; noise; light emissions and visual impacts; historical, architectural, archaeological, and cultural resources; air quality; water resources (including wetlands, floodplains, surface waters, groundwater, and wild and scenic rivers); biological resources (fish, wildlife, and plants); hazardous materials, pollution prevention, and solid waste; socioeconomics, environmental justice, and children's environmental health risks and safety risks; energy supply and natural resources; and secondary (induced) impacts. Additional resources were also considered including airspace, health and safety, and ground traffic and transportation.

Issued in Washington, DC on May 27, 2014.

Daniel Murray,

Manager, Space Transportation Development Division.

[FR Doc. 2014–12985 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–33]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14, Code of Federal Regulations (14 CFR). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before June 26, 2014.

ADDRESSES: You may send comments identified by docket number FAA–2014–0101 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments digitally.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for 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).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *mark.forseth@faa.gov,* phone (425) 227–2796; or Sandra Long, ARM–201, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *sandra.long@faa.gov,* phone (202) 267–4714.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 3, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0101
Petitioner: FedEx Express

Section of 14 CFR Affected

§§ 25.785(j), 25.812(e), 25.857(e), and 25.1447(c)(2)(i)

Description of Relief Sought

The petition seeks an exemption for relief to allow carriage of up to two (2) off-duty flightcrew members in a Crew Rest Module

(CRM) which will be located on the Class E compartment of the Boeing Model 767–300F/–300BCF/–300BDSF freighter airplanes.

[FR Doc. 2014–13167 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–34]

[Petition for Exemption; Summary of Petition Received]

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before June 26, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0297 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Mark James, Policy and Regulation (ACE–111), Small Airplane Directorate, Aircraft Certification Service, FAA; telephone number (816) 329–4137, fax number (816) 329–4090, email at *mark.james@faa.gov;* or Sandra K. Long, ARM–201, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *Sandra.long@faa.gov,* phone (202) 267–4714.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 3, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0297.
Petitioner: Cub Crafters, Incorporated.

Section of 14 CFR Affected

14 CFR 23.629

Description of Relief Sought

The petitioner is seeking relief from the revised requirement of 14 CFR 23.629 amendments 23–48 and 23–62 to flight flutter test the Gavilan EL–1 airplane.

[FR Doc. 2014–13168 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2013–0026]

Enhanced Mobility of Seniors and Individuals With Disabilities: Final Circular

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of final circular.

SUMMARY: The Federal Transit Administration (FTA) has placed in the docket and on its Web site, guidance in the form of a circular to assist grantees in implementing the Enhanced Mobility for Seniors and Individuals with Disabilities Program. The Moving Ahead for Progress in the 21st Century Act blended the New Freedom Program and the Elderly Individuals and Individuals with Disabilities Program into a new Enhanced Mobility for Seniors and Individuals with Disabilities Program. FTA is updating the circular due to these changes in the law.

DATES: The final circular becomes effective July 7, 2014.

FOR FURTHER INFORMATION CONTACT: For program questions, Gilbert Williams, Office of Program Management, Federal Transit Administration, 1200 New Jersey Ave. SE., Room E44–409, Washington, DC 20590, phone: (202) 366–0797, fax: (202) 366–7951, or email, *Gilbert.Williams@dot.gov.* For legal questions, Bonnie Graves, Office of Chief Counsel, same address, Room E56–306, phone: (202) 366–4011, fax: (202) 366–3809, or email, *Bonnie.Graves@dot.gov.*

SUPPLEMENTARY INFORMATION:

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I. Overview

FTA is updating Circular 9070.1F, ''Elderly Individuals and Individuals with Disabilities Program Guidance and Application Instructions,'' last revised in 2007, in order to incorporate changes in the law subsequent to passage of the Moving Ahead for Progress in the 21st Century Act (MAP–21, Pub. L. 112–141). MAP–21 blended the previous ''Section 5310 program'' and the New Freedom Program (49 U.S.C. 5317, authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU), and repealed by MAP–21).

On July 11, 2013, FTA issued a notice of availability of the proposed circular in the **Federal Register** (78 FR 41824) and requested public comment on the proposed circular. The comment period closed on September 9, 2013. FTA received comments from 53 entities, including trade associations, State DOTs, metropolitan planning organizations, public transportation providers, human service agencies, and individuals. This notice addresses the

comments received and explains changes FTA made to the proposed circular in response to comments.

The new Section 5310 program, as amended by MAP–21, authorizes grants for the activities previously authorized under two separate grant programs: Section 5310, formula grants for the special needs of elderly individuals and individuals with disabilities; and Section 5317, New Freedom program. The new Section 5310 program authorizes four types of projects: Public transportation projects planned, designed, and carried out to meet the special needs of seniors and people with disabilities when public transportation is insufficient, unavailable or inappropriate; public transportation projects that exceed the requirements of the Americans with Disabilities Act (ADA) of 1990; public transportation projects that improve access to fixed route service and decrease reliance by people with disabilities on complementary paratransit; and alternatives to public transportation that assist seniors and people with disabilities with transportation. Notably, the ''alternatives to public transportation'' language now applies to seniors as well as to people with disabilities, and projects no longer have to be ''new'' to be eligible for funding. Newly eligible under Section 5310 are projects that improve access to fixed route service. The objective of this eligible activity is to remove barriers, including improving access to public rights-of-way and installing elevators in rail stations that are not required by the ADA to have elevators, so people who use wheelchairs or have other mobility impairments have greater access to bus stops and rail stations.

Several aspects of the new Section 5310 program carry forward language from the previous Section 5310 and 5317 (New Freedom) programs. For example, projects funded under the new Section 5310 must be part of a program of projects that is annually submitted to FTA. Recipients of Section 5310 funds may coordinate and assist with meal delivery services for homebound people, as long as the service does not interfere with the provision of transportation services. The Federal share of costs remains at 80 percent for capital projects and 50 percent for operating. Consistent with previous law, facilities or equipment may be transferred to other recipients under certain conditions. Further, the requirement for coordinated planning is retained, and projects must be included in the coordinated plan. In addition, seniors and people with disabilities must be included in the development and approval of the coordinated plan.

Under MAP–21, funding for the new Section 5310 program is no longer only apportioned to States; it is now apportioned in the same way that Section 5317 (New Freedom) funds were apportioned under the previous authorization, except the senior population (age 65 and over) is now included in the formula. The law specifies that 60 percent of the funds are apportioned to designated recipients in large urbanized areas with a population of 200,000 or more in a ratio reflecting the number of seniors and people with disabilities in each such urbanized area; 20 percent of the funds are apportioned to the States in a ratio reflecting the number of seniors and people with disabilities in urbanized areas with a population of less than 200,000; and 20 percent of the funds are apportioned to the States in a ratio reflecting the number of seniors and people with disabilities in rural areas with a population of less than 50,000 in each State.

The competitive selection process, required under the previous New Freedom program, is no longer mandatory. However, whether or not a State or a designated recipient uses a competitive selection process to award funds to subrecipients, the State or designated recipient must certify that funds allocated to subrecipients are allocated on a fair and equitable basis.

II. Chapter-by-Chapter Analysis

A. Chapter I—Introduction and Background

Chapter I of the proposed circular is an introductory chapter and covers general information about FTA and how to contact us, briefly reviews the authorizing legislation for FTA programs generally, includes definitions applicable to the Section 5310 program, and provides a brief history of the Section 5310 program. Where applicable, we have used the same definitions found in statute, rulemakings, and other circulars to ensure consistency.

FTA received three comments on this chapter, all related to definitions. One commenter suggested that FTA clarify the definition of ''public transportation,'' since some providers are not public transportation agencies, but are non-profit human service agencies that also provide transportation services. In MAP–21, Congress amended the definition of public transportation to include service that is open to a segment of the general public defined by age, disability or low-income. This definition includes service provided by non-profit agencies. One commenter suggested we add a definition of ''direct recipient'' and we have done so. We have also added the statutory definition of ''designated recipient.'' The commenter also suggested we add definitions for ''selection of projects'' and ''competitive selection process.'' We believe these do not require definitions and are adequately described in the circular. Finally, one commenter noted that the Older Americans Act defines ''elderly'' as 60 years of age or older. Federal transit law at 49 U.S.C. 5302(18) defines ''senior'' as an individual who is 65 years of age or older. We would note that public transportation providers may define ''senior'' to include individuals under age 65, as a lower age would be inclusive of those over age 65. For purposes of the formula, funds are distributed based on the number of people over age 65 in a particular area.

B. Chapter II—Program Overview

Section 5310(h) requires FTA to submit a report to Congress making recommendations on the establishment of performance measures for grants under Section 5310. The law requires the report to be developed in consultation with national non-profit organizations that provide technical assistance and advocacy on issues related to transportation services for seniors and individuals with disabilities. In addition, Section 5335(c) requires all FTA grant recipients, including grant recipients under Section 5310, to report an asset inventory or condition assessment conducted by the recipient to the National Transit Database (NTD). In the notice announcing the availability of the proposed circular, FTA asked for comment on performance measures and reporting requirements, proposed in section 3 of chapter II.

FTA received a number of comments on its proposal. Commenters were generally concerned about the amount of data that would be collected from traditional Section 5310 subrecipients, as well as how that data would be collected. Some commenters suggested various performance measures, and two commenters suggested that there be two sets of performance measures: One for traditional Section 5310 projects and one for other Section 5310 projects.

In light of the requirement that FTA develop a report on performance measures in consultation with national non-profit organizations that provide technical assistance and advocacy on issues related to transportation services for seniors and individuals with

disabilities, and that we did not receive comments from such organizations, FTA conducted additional outreach on this topic. Easter Seals Project Action coordinated an online dialogue from March 31 through April 18, 2014 (*http://fta5310grant.ideascale.com/*) to get additional comments on the measures required by 49 U.S.C. 5310(g): Modifications to the geographic coverage of transportation service, the quality of transportation service, or service times that increase the availability of transportation services for seniors and individuals with disabilities; ridership; and accessibility improvements. FTA is in the process of reviewing the additional comments and expects to make recommendations regarding performance measures in response to this outreach effort.

In this final circular, FTA has retained the existing performance measures for traditional Section 5310 projects, as well as the existing measures for what used to be New Freedom projects. This will allow for consistency and a continuation of previous reporting requirements as FTA considers new performance measures.

The asset inventory reporting required by 49 U.S.C. 5335(c) will not take effect until FTA amends the National Transit Database (NTD) reporting manual, via a notice in the **Federal Register**. FTA invites interested stakeholders to submit comments when the notice is published.

C. Chapter III—General Program Information

FTA received a number of comments on this chapter, but many of the comments relate to provisions in the law that FTA cannot change. For example, several commenters objected to available funds being apportioned 60 percent to large urbanized areas, 20 percent to small urbanized areas and 20 percent to rural areas, and asked for more flexibility in apportioning funds. This formula is established by Congress in 49 U.S.C. 5310(c), and FTA has no discretion to change it. However, the law does allow funds apportioned for small urbanized and rural areas to be transferred to another area of the State if the Governor of the State certifies that all of the objectives of the Section 5310 program are being met in the specified areas. For example, if all objectives of the Section 5310 program are being met in rural areas, funds designated for rural areas may be transferred to urbanized areas of less than 200,000 in population. Funds apportioned to small urbanized and rural areas may also be transferred for use anywhere in the State, including large urbanized areas, if the State has established a statewide program for meeting the objectives of the Section 5310 program. A recipient may transfer apportioned funds only after consulting with responsible local officials, publicly owned operators of public transportation, and nonprofit providers in the area from which the funds to be transferred were originally apportioned. Funds apportioned to large UZAs may not be transferred to other areas.

One commenter asked how the disability calculation will be made for apportionment purposes. Consistent with 49 U.S.C. 5310(c), FTA uses Census Bureau data, specifically the American Community Survey's 5-year data sets, which are updated annually, to determine the number of seniors and people with disabilities in a particular area.

Another subject on which commenters had questions—and on which FTA has no discretion—was when an entity would be able to apply to FTA directly for Section 5310 funds as opposed to being a subrecipient of a designated recipient. In large urbanized areas, the Section 5310 designated recipient may allocate funds to a Section 5307 designated recipient as a result of its coordinated planning and selection processes, and that Section 5307 designated recipient may apply to FTA directly for Section 5310 funds. This is consistent with the previous New Freedom program, and there would be no other eligible direct recipients in large urbanized areas beyond these program designated recipients. There was a change in the law related to small urbanized and rural areas. The previous New Freedom program (at 49 U.S.C. 5317(c)(3)) permitted States to transfer New Freedom funds to Section 5307 for administration of competitively selected New Freedom projects within a Section 5307 grant to an eligible recipient under that program. This provision is not in the new Section 5310 program. Therefore, the State is the only eligible direct recipient for Section 5310 funds in rural areas and small urbanized areas, and because the language in the proposed circular was consistent with the law, FTA is not making any changes to section 4 of chapter III, Eligible Direct Recipients.

Several commenters had questions about the requirement that 55 percent of an area's apportionment be available for ''traditional Section 5310 projects.'' The new Section 5310 program essentially maintains the status quo for traditional Section 5310 projects—those public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, unavailable or inappropriate. These projects are carried out by private non-profit organizations, including human service agencies; or a State or local governmental authority that is approved by a State to coordinate services for seniors and individuals with disabilities, or certifies that there are no non-profit organizations readily available in the area to provide the service. Eligible subrecipients for other Section 5310 activities include a State or local governmental authority, a private non-profit organization, or an operator of public transportation that receives a Section 5310 grant indirectly through a recipient.

Consistent with the Section 5310 program under previous authorizations, for traditional Section 5310 projects, the State or designated recipient applies for Section 5310 funds on behalf of private non-profit agencies (such as human service agencies) and eligible local governmental authorities within the rural area of the State or the urbanized area. This provision ensures continued support for non-profit providers of public transportation, and maintains the status quo for these projects. For the remaining Section 5310 funds available (at most, 45 percent) to a rural or urbanized area, the designated recipient applies to FTA on behalf of itself and eligible subrecipients.

Commenters asked FTA to clarify when the 55 percent of funds available for traditional Section 5310 projects would be available for ADA complementary paratransit. As we stated in the **Federal Register** notice accompanying the proposed circular, based on historical uses of Section 5310 funds, FTA proposed including the eligibility of rolling stock for and acquisition of ADA complementary paratransit service as traditional Section 5310 projects when carried out by eligible subrecipients, so long as the projects are planned, designed, and carried out to meet the specific needs of seniors and individuals with disabilities when public transportation is insufficient, unavailable or inappropriate, and the projects are included in the area's coordinated plan. Some States have historically used Section 5310 funds for vehicle and service acquisition for ADA complementary paratransit service, in particular where the State has required coordination efforts among human service transportation providers. Therefore, vehicle and service acquisition will continue to be eligible activities under the Section 5310 program as traditional Section 5310 projects when the requirements listed above are met. Operating expenses for

ADA paratransit service are not eligible expenses under any part of the Section 5310 program, except as acquisition of service, permitted under 49 U.S.C. 5310(b)(4). We have amended the circular for clarity.

If a recipient, through the coordinated planning process, elects to expand ADA service beyond the required service components (geographic area, additional hours, etc.) and requires additional vehicles to do so, those additional vehicles would be eligible under the 45 percent ''other eligible projects'' as a project that exceeds ADA minimum requirements. Similarly, accessibility improvements to rail stations are eligible as long as they exceed ADA minimum requirements. For example, installing an elevator in an older station where elevators are not required, or installing a second elevator at a station in order to provide more reliable access would be eligible under ''other eligible projects.''

Some commenters asked whether States could blend their rural and small urbanized area apportionments for purposes of allocating funds between traditional Section 5310 projects and other eligible projects. For example, if the State had two small urbanized areas in addition to the rural area, could it allocate 55 percent of the total apportionment for the three areas to the rural area, thus allowing the small urbanized areas to use their apportionments for other eligible projects? The law requires that the amount available for capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate or unavailable ''shall be not less than 55 percent of the funds apportioned to the recipient'' under Section 5310. FTA apportions funds to States for rural areas, and separately apportions funds to States for small urbanized areas. Therefore, the allocation between traditional Section 5310 projects and other projects must be a minimum 55/45 split in each area that receives an apportionment.

One commenter requested that FTA allow the pass through of administrative funds from the designated recipient to one or more subrecipients for administration, planning, or technical assistance purposes. We have amended section 12 of chapter III to include language allowing this pass through of funds.

Three commenters asked that FTA remove the word ''capital'' in section 16, Federal/Local Matching Requirements when describing non-cash or in-kind match. FTA agrees that non-cash and in-kind match may be operating or capital costs, and we have removed the word ''capital.'' In response to comments, we have also removed the word ''new'' when describing eligible projects, and added the word ''seniors'' to include alternative transportation available for both seniors and individuals with disabilities.

Finally, one commenter suggested that FTA should not specifically identify taxi operators as being eligible subrecipients in certain circumstances, but should state for-profit operators are eligible. Providers of public transportation, whether for-profit or non-profit, are eligible subrecipients. However, public transportation is a shared-ride service, and most taxi companies provide exclusive ride service. We included this information in the circular in order to address a frequently asked question of the former New Freedom program. Entities that provide exclusive ride service may be eligible participants in the Section 5310 program, but only as contractors, not as subrecipients.

FTA has made amendments to Chapter III in response to comments described above, as well as clarifying edits.

D. Chapter IV—Program Development

FTA received only two comments on this chapter, and both commenters requested that FTA revise section 7, Certifications and Assurances, to reflect the fact that the designated recipient is responsible for submitting the certifications and assurances in large urbanized areas. This was an oversight in the proposed circular and we have revised the language.

E. Chapter V—Coordinated Planning

This chapter describes the required coordinated planning process. Several commenters requested that FTA maintain flexibility in how a project appears in a coordinated plan. We have added language in the circular to clarify that projects may be identified in the plan as strategies, activities, and/or specific projects addressing service gaps or transportation coordination objectives articulated and prioritized within the plan. For example, a coordinated plan may identify a service gap, such as the absence of accessible transportation service after 10:00 p.m., when the transit system's fixed route service ends. Examples of strategies to address this service gap may be non-specific, such as adding late-night service options; or may be more specific, such as contracting for accessible taxi service or extending ADA complementary paratransit hours past the fixed route service end time. Either approach allows designated recipients to meet the identified service gap. Alternatively, the plan may include a specific project if the people developing the coordinated plan prefer to include a specific project to meet this need. The level of specificity in the coordinated plan is a local decision. However, FTA expects the program of projects that accompanies the grant to clearly identify the gaps or strategies a particular project is addressing; this should be done by providing the page number in the coordinated plan that correlates to the gap or strategy for a particular project.

Another area of comment involved addition of the word ''approved'' in the sentence, ''a coordinated plan . . . developed and approved through a process that included participation by seniors, individuals with disabilities . . .'' The addition of the word ''approved'' is a change in the law. FTA inadvertently left out the words ''and approved'' in several places in the circular; we have amended the text to be clear that the people developing the coordinated plan—including seniors and individuals with disabilities—must also approve that plan. This ensures that the people who are identifying the needs and establishing the priorities in the plan will also have a voice in approving that plan. One commenter asked how ''approved'' is different from ''adopted.'' In this instance, we believe these terms are synonymous—an adopted plan is by definition one that is approved.

Some commenters asked about the relationship between the coordinated plan and the project selection process, particularly when the project selection process is competitive. Under previous law, a competitive selection process was required for Section 5317 (New Freedom); under MAP–21 it is optional. Regardless of how a specific contractor or subrecipient is selected to carry out the project, projects should be funded in accordance with the priorities identified in the coordinated plan.

One commenter asked if each individual rural project must be included in the Statewide Transportation Improvement Program (STIP). Depending on the projects resulting from the coordinated planning and selection process, a single line item on the STIP for capital or operating projects may be sufficient. However, given the expanded project and subrecipient eligibility under MAP–21, a designated recipient and State may need to consider more detailed programming, such as categorizing the

projects based on the types of projects (capital or operating) and/or types of subrecipients, e.g., non-profit, public entity, etc.

Finally, one commenter asked if a current four-year coordinated plan is in place, could the plan be updated to meet the new MAP–21 requirements? FTA recognizes that some entities may need to modify existing coordinated plans to address the specific needs of seniors and individuals with disabilities and/or be approved by seniors and individuals with disabilities. Modifications to existing plans are acceptable.

FTA has made clarifying edits to Chapter V to address the above comments.

F. Chapter VI—Program Management and Administrative Requirements

The vast majority of comments received for Chapter VI related to the proposed reporting requirements. FTA had proposed meeting the requirements of 49 U.S.C. 5335(c) by combining all of the performance measure and asset inventory reporting requirements into a single requirement, and allow States and designated recipients to report on behalf of their subrecipients under a single, unified reporting system. While some commenters supported this approach, most commenters expressed concern that such reporting would be burdensome on small Section 5310 non-profit providers. As discussed in the Chapter II summary, above, FTA is retaining the existing performance measures for the program (including the measures for the former New Freedom program) while we review comments received as a result of additional outreach with non-profit agencies. In addition, the National Transit Database (NTD) reporting requirement will only be effective after FTA conducts a rulemaking on this requirement.

The remaining comments were related to vehicle use. One commenter asked that FTA define the word ''incidental'' and provide examples of permissible incidental use. Incidental use means occasional or infrequent use of vehicles that does not interfere with the project activities originally funded. Examples are provided in section 5, Vehicle Use, and include meal delivery as well as use for other Federal programs, as when the recipient is coordinating service with other entities that provide transportation for seniors or individuals with disabilities. Operating assistance available under Section 5310 may not be used for such incidental purposes.

G. Chapter VII—State and Program Management Plans

FTA proposed only minor changes to Chapter VII, generally to address the change from a State-managed program to a program managed by designated recipients as well as States. FTA received one comment on this chapter. In section 1, General, the commenter asked FTA to be more specific about the State Management Plan and Program Management Plan contents that should be coordinated with the STIP and TIP. We have amended the language for clarity. We would note, however, that there is flexibility in the coordination of the STIP and the State Management Plan, as well as the TIP and the Program Management Plan. Each State and urbanized area has different needs and as such the management plan will be different; therefore, FTA has elected not to be too specific in what must be included in the management plan.

H. Chapter VIII—Other Provisions

This chapter describes cross-cutting FTA and Federal requirements that apply to the Section 5310 program. Two commenters suggested modifying the Title VI program requirements for Section 5310 subrecipients. FTA's Title VI program circular states that Section 5310 non-profits that serve only their own clientele (closed door service) are required to submit a Title VI Program every three years, but it is a streamlined Program that includes only basic information. Interested stakeholders are invited to visit *http://www.fta.dot.gov/legislation_law/12349_14792.html* and review page IV–1 of the Title VI circular. One commenter suggested that typical categorical exclusions be included in the Environmental Review section of this chapter. Operating assistance and most vehicle acquisitions will be categorically excluded, but many other capital projects may not be. We recommend recipients consult with their FTA regional office if they have specific questions related to environmental reviews. One commenter suggested that FTA include the human service transportation exception to the charter service prohibition in the circular. We have added this text to the section on Charter Bus Services.

I. Appendices

One commenter suggested that FTA remove the union contact information from the checklist in Appendix A, since labor protections do not apply to the Section 5310 program. We have made that change. We have not made any other substantive edits to the appendices.

Issued in Washington, DC, 2nd day of June 2014.

Dorval R. Carter, Jr.,

Chief Counsel.

[FR Doc. 2014–13178 Filed 6–5–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number MARAD–2014–0068]

Adoption and Recirculation of the Final Environmental Impact Statement for the Masonville Dredged Material Containment Facility (DMCF)

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice, Adoption of Environmental Impact Statement (EIS).

SUMMARY: The Maritime Administration (MARAD) is issuing this notice to advise the public and interested agencies that MARAD is adopting the United States Army Corps of Engineers (COE) May 2007 Final Environmental Impact Statement and subsequent Record Of Decision (FEIS, ROD; August 2007) for the Masonville Dredged Material Containment Facility (DMCF) proposed by the Maryland Port Administration (MPA).

MARAD is adopting the 2007 EIS to satisfy MARAD's National Environmental Policy Act (NEPA) obligations related to MPA's receipt of a Transportation Investment Generating Economic Recovery (TIGER) grant from the US DOT. MARAD is administering that grant.

Under applicable Council on Environmental Quality (CEQ) regulations, MARAD may adopt and recirculate the COE's Final EIS because MARAD's proposed action is substantially the same as the action covered by the COE's FEIS.

DATES: Comments regarding the adoption of the 2007 EIS must be received on or before July 7, 2014.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2014–0068 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search MARAD–2014–0068 and follow the instructions for submitting comments.
- *E-Mail:* Mr. Andrew Larimore at *Rulemakings.MARAD@dot.gov.* Include MARAD–2014–0068 in the subject line of the message.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590.

If you would like to know that your comments reached the facility, please enclose a stamped, self-addressed postcard or envelope.

• *Hand Delivery/Courier:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590. The Docket Management Facility is open 9:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, 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. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying and electronic filing.

Instructions: All submissions received must include the agency name and docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Colleen Vaughn, Environmental Protection Specialist, Maritime Administration, 1200 New Jersey Ave., SE MS -1, Washington, DC 20590, Telephone: (202) 366–8024or via email at *Colleen.Vaughn@dot.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during business hours. The FIRS is available twenty-four hours a day, seven days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Masonville Final Environmental Impact Statement (FEIS) was prepared to support a permit application by the MPA to the COE pursuant to Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act for the construction of a DMCF. The FEIS presents a consolidation of State and Federal study findings, as well as an evaluation of the suitability of the Masonville site to help meet the 20-year Baltimore Harbor dredged material annual placement capacity needs. Potential impacts and site development issues, including the use of dredged material from the Seagirt dredging area, were investigated and documented. The Masonville DMCF was determined to be the preferred option from an environmental and engineering standpoint.

The MARAD TIGER project builds on currently permitted dredging and filling activities at the Masonville DMCF. It will result in the filling of a Wet Basin, development of 7.6 acres of new terminal, widening of the Seagirt Marine terminal access channel, expanding the existing rail yard at the Masonville Marine Terminal, and extending rail to the new Masonville vessel berth, located at the Port of Baltimore.

The CEQ regulations allow Federal agencies, such as MARAD, to adopt environmental documents prepared by another Federal agency when the proposed actions are ''substantially the same'' and the adopting agency has concluded that the initial statement meets the standards for an adequate statement under the CEQ regulations. The CEQ regulations state that when the actions are substantially the same, ''the agency adopting the agency's statement is not required to recirculate it except as a final statement.'' Further, CEQ's regulations implementing NEPA strongly encourage agencies to reduce paperwork and duplication (40 CFR 1500.4). One of the methods identified by CEQ to accomplish this goal is adopting the environmental documents prepared by other agencies in appropriate circumstances (40 CFR 1500.4(n), 1500.5(h), and 1506.3). MARAD has conducted an independent review of the 2007 EIS for the purpose of determining whether MARAD could adopt it pursuant to 40 CFR 1506.3. MARAD's review concluded that the proposed action is substantially the same as the action documented in the 2007 EIS, that the EIS adequately assessed the environmental impacts associated with the proposed improvements and meets the standards of the CEQ NEPA Regulations (40 CFR parts 1500 through1508.

The final stage in the environmental review process under NEPA is the issuance of a Record of Decision by the agency describing the agency's decision and the basis for it. Under the timelines included in the CEQ regulation (40 CFR 1506.10), a Record of Decision cannot be issued by an agency earlier than thirty days after the EPA publishes its **Federal Register** notice announcing to the public of the availability of the final EIS. Any Record of Decision issued by MARAD will be consistent with 40 CFR 1505.2 and MARAD's Procedures for Considering Environmental Impacts.

Accordingly, MARAD is adopting and recirculating the 2007 FEIS and has concluded that no supplemental or additional environmental review is required to support MARAD's proposed action.

Participation

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number in your comments. MARAD encourages you to provide concise comments. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments. Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**.

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. When you send comments containing information claimed to be confidential information, you should include a cover letter setting forth with specificity the basis for any such claim.

MARAD will consider all comments received before the close of business on the comment closing date indicated above under **DATES**.

For in–person access to the docket to submit or read comments received, go to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590. The Docket Management Facility is open 9:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays. To review documents, read comments or to submit comments, the docket is also available online at *http://www.regulations.gov.*, keyword search MARAD–2014–0068.

Please note that even after the comment period has closed, MARAD will continue to file relevant information in the Docket as it becomes available. Accordingly, MARAD recommends that you periodically check the Docket for new material.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT Privacy Act system of records notice for the Federal Docket Management System (FDMS) in the

Federal Register published on January 17, 2008, (73 FR 3316) at *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

Authority: 49 CFR Sections 1.92 and 1.93.

By Order of the Maritime Administrator.

Dated: June 2, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–13161 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0143; Notice 1]

General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of Petition.

SUMMARY: General Motors, LLC (GM) has determined that certain model year (MY) 2010–2014 GM Cadillac SRX multipurpose passenger vehicles (MPVs), do not fully comply with paragraph S4.4 of Federal Motor Vehicle Safety Standard (FMVSS) FMVSS No. 110, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less* and paragraph S4.4 of FMVSS No. 109, *New pneumatic and certain specialty tires.* GM has filed an appropriate report dated November 27, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

DATES: The closing date for comments on the petition is July 7, 2014.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Deliver:* Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by: logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. GM's Petition

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), GM submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved

Affected are approximately 51,704 MY 2010–2014 GM Cadillac SRX manufactured between June 18, 2009, and October 31, 2013.

III. Noncompliance

GM explains that the noncompliances are due to both an error in the spare rim marking, and that the tire and rim matching information is not contained in The European Tyre and Rim Technical Organization (ETRTO) publication. The dimensions of the rims are consistent with the dimensions listed by ETRTO, and should have been marked ''E'' as required by FMVSS No. 110, S4.4.2(a). Due to the rim marking error, the rims were marked ''T,'' indicating The Tire and Rim Association, Inc. (T&RA), as a consequence some of the actual dimensions of the rims are inconsistent with the published nominal dimensions in the T&RA Year Book. In addition, the combination of T135/70R18 temporary spare tires and 18x4.5B rims is not listed in ETRTO, which is a noncompliance with FMVSS No. 109, S4.4.1(b).

IV. Rule Text

Paragraph S4.4.2 of FMVSS No. 110 requires in pertinent part: Each rim shall be marked with the information listed in S4.4.2(a) through (e) . . .

(a) designation that indicates the source of the rim's published nominal dimensions, as follows:

(1) ''T'' indicates The Tire and Rim Association.

(2) ''E'' indicates The European Tyre and Rim Technical Organization . . .

Paragraph S4.4.1 of FMVSS No. 109 requires in pertinent part: . . . a listing of the rims that may be used with each tire is provided to the public . . . in one of the following forms:

(b) Contained in publications, current at the date of manufacture of the tire or any later date, of at least one of the following organizations: Tire and Rim Association, The European Tyre and Rim Technical Organization, . . .

V. Summary of GM's Analyses

GM stated its belief that the subject noncompliances are inconsequential to motor vehicle safety for the following reasons:

1. GM stated that the tire and rim of the affected spare wheels are properly matched, and are appropriate for the load-carrying characteristics of the subject vehicles. The subject tire/rim assembly meets S4.4.1(b) rapid air loss requirement of FMVSS No. 110. The subject vehicles also met GM's internal ride and handling guidelines with the subject spare tire/rim assembly installed. The incorrect association marking has no effect on the performance of the tire/rim combination.

2. GM believes that all other rim marking information required by S4.4.2 of FMVSS No. 110 on the subject rims is correct. The rims are marked with S4.4.2(b) rim size designation; S4.4.2(c) the symbol DOT; S4.4.2(d) manufacturer identification; and S4.4.2(e) month and year of manufacture.

3. GM believes that the rim is marked with the correct rim size information; namely 18x4.5B. The vehicle tire pressure placard contains the correct tire size information, and the tire size is marked on the tire sidewall. The certification label on the vehicle contains the correct spare tire and rim sizes; namely T135/70R18 and 18x4.5B. Thus, the rim markings and vehicle labeling, which are used to identify the correct replacement rim, provide the correct and complete size of spare rim. Therefore, there is very little likelihood of a tire and rim mismatch as a result of the incorrect marking of the source of the published rim dimensions.

4. GM believes that very few of these spare wheels will ever need to be replaced over the life of the vehicle. Nevertheless, the owner's manual provided with these vehicles contains a section ''Wheel Replacement''. This section states ''Your dealer will know the kind of wheel that is needed. Each new wheel should have the same load-carrying capacity, diameter, width, offset, and be mounted the same way as the one it replaces.''

5. GM believes that if a customer needs to replace a spare wheel, he/she is likely to go to a GM dealer or a tire/wheel retailer. The skilled personnel at these facilities know how to determine the correct spare wheel size that they are replacing. For spare wheel replacement, they may look at the spare wheel itself, the tire, the tire placard or the certification label to determine the replacement size. The spare wheel does contain the correct size designation 18x4.5B.

6. GM believes that all other applicable requirements of FMVSS Nos. 109 and 110 have been met.

GM also stated its belief that NHTSA has previously granted inconsequential treatment for FMVSS No. 110 rim marking noncompliance.

GM informed NHTSA that it is not aware of any crashes, injuries or customer complaints associated with this condition.

GM also informed NHTSA that it has corrected the noncompliance for all future production.

In summation, GM believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject noncompliant vehicles that GM no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve motor vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant motor vehicles under their control after GM notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–13182 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0047; Notice 1]

Mitsubishi Motors North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of Petition.

SUMMARY: Mitsubishi Motors North America, Inc. (MMNA) has determined that certain model year (MY) 2014 Mitsubishi Outlander Sport multipurpose passenger vehicles (MPV) do not fully comply with paragraph S6 of Federal Motor Vehicle Safety Standard (FMVSS) No. FMVSS 205, *Glazing Materials.* MMNA has filed an appropriate report dated April 3, 2014, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

DATES: The closing date for comments on the petition is July 7, 2014.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Deliver:* Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by: Logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published

in the **Federal Register** pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. MMNA's Petition

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), MMNA submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of MMNA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved

Affected are approximately 311 MY 2014 Mitsubishi Outlander Sport MPVs manufactured from February 12, 2014 through February 21, 2014 that contained mislabeled laminated rear door glazing manufactured by Pilkington North America, Inc. (PNA).

III. Noncompliance

MMNA explains that the noncompliance is that the laminated rear door glazing in the subject vehicles was labeled with the incorrect manufacturer's model number. Specifically, the glazing was labeled with PNA model number ''M131'' instead of the correct model number ''M129.''

IV. Rule Text

FMVSS No. 205 incorporates ANSI Z26.1–1996 and other industry standards in paragraph S.5.1 by reference. Paragraph S6 of FMVSS No. 205 specifically requires manufacturers to mark the glazing material in accordance with Section 7 of ANSI Z26.1 and to add other markings required by NHTSA. With respect to the subject noncompliance, Section 7 of ANSI Z26.1–1996 specifies that in addition to the item of glazing number and other required markings, the manufacturer shall include a model number which will identify the type of construction of the glazing material.

V. Summary of MMNA's Analyses

MMNA stated its belief that the subject noncompliance relates solely to the product monograms or markings, specifically the use of model number ''M 131'' instead of ''M 129''. These rear door windows otherwise meet all other marking and performance requirements of FMVSS No. 205 and ANSI Z26.1. MMNA also stated its belief that NHTSA previously noted that ''The stated purposes of FMVSS No. 205 are to reduce injuries resulting from impact to glazing surfaces, to ensure a necessary degree of transparency in motor vehicle windows for driver visibility, and to minimize the possibility of occupants being thrown through the vehicle windows in collisions'' (64 FR 70116, December 15, 1999). MMNA believes that because the affected glazing fully meets all of the applicable performance requirements of FMVSS No. 205 that the absence of the correct model number on the glazing has no effect upon the ability of the glazing to satisfy those purposes and thus perform in the manner intended by FMVSS No. 205.

MMNA also stated its belief that NHTSA has previously granted other petitions that MMNA believes were similar to the subject petition.

MMNA is not aware of any crashes, injuries, customer complaints, or field reports associated with this condition.

MMNA has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles delivered with laminated glass will comply with FMVSS No. 205.

In summation, MMNA believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that MMNA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after MMNA notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8).

Jeffrey M. Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–13183 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0146; Notice 1]

BMW of North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: BMW of North America, LLC, (BMW) a subsidiary of BMW AG in Munich, Germany, has determined that certain model year (MY) 2014 BMW 7 series and 6 series vehicles do not fully comply with paragraph S5.2.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays.* BMW has filed an appropriate report dated December 5, 2013 pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

DATES: The closing date for comments on the petition is July 7, 2014.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Deliver:* Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by: Logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. BMW's Petition

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), BMW submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of BMW's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved

Affected are approximately 5,806 of the following MY 2014 BMW vehicles:

2014 BMW 7 Series manufactured between July 1, 2013 and November 4, 2013,

2014 BMW 6 Series Coupe M Sport Edition manufactured between May 15, 2013 and October 29, 2013,

2014 BMW 6 Series Grand Coupe M Sport Edition manufactured between May 15, 2013 and July 30, 2013,

2014 BMW 6 Series Convertible M Sport Edition manufactured between April 2, 2013 and October 29, 2013.

III. Noncompliance

BMW explains that while using in-vehicle controls and displays, there is a possibility for the vehicle operator or front seat passenger to enable the speedometer to display vehicle speed in units of miles-per-hour (mph) or kilometers-per-hour (km/h). Since all vehicles sold in the U.S. must display vehicle speeds in mph, or mph and km/h these vehicles fail to fully meet the requirements set forth in paragraph S5.2.1 of FMVSS No. 101.

IV. Rule Text

Paragraph S5.2.1 of FMVSS No. 101 requires in pertinent part:

S5.2.1 Except for the Low Tire Pressure Telltale, each control, telltale and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2 . . .

V. Summary of BMW's Analyses

BMW stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. BMW states that the indicated vehicle speed in km/h is 1.6 times greater than speed in mph. BMW believes that if a vehicle operator changes the display to indicate km/h and later forgets that the change had been made, the operator will clearly recognize that the vehicle is moving at a lower speed than intended and adjust the vehicle speed to match road and traffic conditions. Thus, signaling the operator (at the next appropriate opportunity) to perform the necessary steps to adjust the speedometer.

2. BMW also states that the vehicle's Owner Manual contains information pertaining to the use of the iDrive controller to change the units displayed within the ''Settings'' menu. Therefore, if a vehicle operator needs to reconfigure the display to indicate mph, instructions are available.

3. BMW further states that the vehicle's Owner Manual and Service and Warranty Book contain the toll-free telephone number for BMW Customer Relations. Additionally, the in-vehicle iDrive system offers the vehicle operator a BMW Customer Relations menu option to directly contact BMW Customer Relations via the embedded wireless communications module. Therefore, if a vehicle operator notices that the speed is incorrectly displayed in km/h and does not know how to reset the speed to display in mph, e.g., as set by a prior operator, the vehicle operator can easily contact BMW Customer Relations for assistance.

5. BMW is not aware of any contacts from vehicle operators regarding this issue.

6. BMW is also not aware of any accidents or injuries that have occurred as a result of this issue.

BMW has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 101.

In summation, BMW believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt BMW from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve BMW distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant motor vehicles under their control after BMW notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8).

Jeffrey M. Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–13181 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0145; Notice 1]

KBC America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of Petition.

SUMMARY: KBC America, Inc. ''KBCA'' has determined that certain motorcycle helmets manufactured by KBC Corporation for Harley-Davidson as Harley-Davidson brand helmets do not fully comply with paragraph S4 of Federal Motor Vehicle Safety Standard (FMVSS) No. 218, *Motorcycle Helmets.* KBCA has filed an appropriate report dated December 12, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

DATES: The closing date for comments on the petition is July 7, 2014.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Deliver:* Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by: Logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. KBCA's Petition

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), KBCA submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of KBCA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Helmets Involved

Affected are approximately 566 Jet model helmets that KBC Corporation manufactured in December 2012 for Harley Davidson, who in turn marketed these helmets under its own brand by the model name ''Black Label Retro ¾.''

III. Noncompliance

KBCA explains that the subject helmets fail to fully comply with the requirements of S5.6.1(e) of FMVSS No. 218 that was in effect on the date of manufacture of these helmets because the goggle strap holders on the rear of the helmets obscure the DOT certification label from view.

IV. Rule Text

Paragraph S5.6.1(e) of FMVSS No. 218 requires in pertinent part:

S5.6.1 Each helmet shall be labeled permanently and legibly, in a manner such that the label(s) can be read easily without removing padding or any other permanent part, with the following: * * *

(e) The symbol DOT, constituting the manufacturer's certification that the helmet conforms to the applicable Federal motor vehicle safety standards. This symbol shall appear on the outer surface, in a color that contrasts with the background, in letters at least 3/8 inch (1 cm) high, centered laterally with the horizontal centerline of the symbol located a minimum of 1 1/8 inches (2.9 cm) and a maximum of 1 3/8 inches (3.5 cm) from the bottom edge of the posterior portion of the helmet.

V. Summary of KBCA's Analyses

KBCA stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. KBCA believes that the subject helmets comply with the performance requirements of FMVSS No. 218 and that neither the presence of the strap holder nor the fact that it can obscure the DOT label affects the helmet's ability to protect the wearer in the event of a crash.
2. KBCA states that other than the subject noncompliance the DOT label on the subject helmets comply with the requirements of FMVSS No. 218.
3. KBCA also believes that while the DOT label is not visible when the strap holder is fastened, a user can easily view the label by unfastening the strap holder to confirm that the helmet has been certified and thus complies with the requirements set forth in FMVSS No. 218.
4. KBCA further believes that if their company were required to do a recall of the subject helmets, it would be likely that a very low percentage of helmets would be returned, if any, and that in doing so would leave the owners without a helmet while the subject helmets are retrofitted with a new label.
5. KBCA expressed its belief that in similar situations NHTSA has granted petitions for inconsequential noncompliance regarding other products that have incorrect or missing label information required by other FMVSS's.

KBCA has additionally informed NHTSA that it no longer manufactures the subject helmets.

In summation, KBCA believes that the described noncompliance of the subject helmets is inconsequential to motor vehicle safety, and that its petition, to exempt KBCA from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject helmets that KBCA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant helmets under their control after KBCA notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–13184 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0102; Notice 2]

Morgan 3 Wheeler Limited, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of Petition.

SUMMARY: Morgan 3 Wheeler Limited (Morgan) [1] has determined that certain model year (MY) 2012 and 2013 Morgan model M3W three-wheeled motorcycles, do not fully comply with paragraph S6 of Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials.* Morgan has filed an appropriate report dated August 6, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

ADDRESSES: For further information on this decision contact Luis Figueroa, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5298, facsimile (202) 366–5930.

[1] Morgan 3 Wheeler Limited is an English corporation that manufactures motor vehicles.

SUPPLEMENTARY INFORMATION:

I. Morgan's Petition

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Morgan submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the August 15, 2013, petition was published, with a 30-day public comment period, on January 14, 2014, in the **Federal Register** (79 FR 2507). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2013–0102.''

II. Vehicles Involved

Affected are approximately 139 MY 2012 and 2013 Morgan model M3W three-wheeled motorcycles manufactured during the period August 1, 2012 to August 14, 2013.

III. Noncompliance

Morgan explains that the noncompliance is that the wind deflectors on the vehicles do not have the markings required by FMVSS No. 205.

IV. Rule Text

Paragraph S6 of FMVSS No. 205 requires in pertinent part:

S6.1 A prime glazing material manufacturer must certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies that is designed—

(a) As a component of any specific motor vehicle or camper; or

(b) To be cut into components for use in motor vehicles or items of motor vehicle equipment.

S6.2 A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANSI/SAE Z26.1–1996, in letters and numerals of the same size, the symbol ''DOT'' and a manufacturer's code mark that NHTSA assigns to the manufacturer. NHTSA will assign a code mark to a manufacturer after the manufacturer submits a written request to the Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The request must include the company name, address, and a statement from the manufacturer certifying its status as a prime glazing manufacturer as defined in S4.

S6.3 A manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, must—

(a) Mark that material in accordance with section 7 of ANSI/SAE Z26.1–1996; and

(b) Certify that its product complies with this standard in accordance with 49 U.S.C. 30115.

V. Summary of Morgan's Analyses

Morgan stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

a. The wind deflector fitted in the M3W uses glazing that conforms to item 6 ANSI 226.1–1996-windshields for motorcycles. It is so small (its dimensions are 1O''x5'') that it is not requisite for driving visibility.

b. Morgan owners will go to Morgan dealers for replacement of the wind deflector.

c. The noncompliance is not likely to increase the safety risk to individual occupants who experience the type of injurious event against which the standard was designed to protect.

d. There have been no reports of any safety issues. Both in the U.S. and the rest of the world, Morgan knows of no injuries caused by the noncompliance.

e. The subject noncompliance here is inconsequential in view of the nature of the vehicle in question because Morgan possesses attributes enumerated in several previous NHTSA inconsequential noncompliance determinations that it believes can be applied to a decision on its petition. See Morgan's petition for a complete discussion of its reasoning.

Morgan additionally stated that it shall, as regards ongoing production, mark the wind deflector to comply with the FMVSS No. 205 requirements.

In summation, Morgan believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

VI. NHTSA Decision

FMVSS No. 205 specifies labeling and performance requirements for automotive glazing. Section S6 of FMVSS No. 205 requires glazing material manufacturers to certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies. A prime glazing material manufacturer certifies its glazing by adding the marks required in Section 7 of ANSI Z26.1 (1996), the symbol ''DOT'' and a manufacturer's code mark assigned by the NHTSA's Office of Vehicle Safety Compliance.

Section 7 of ANSI Z26.1 (1996) requires manufacturers to mark automotive glazing with the item of glazing number, e.g., ''AS–1''. Section 7 of ANSI Z26.1 (1996) states that the item of glazing number is to be placed in close proximity to other required markings.

According to the petition, the nature of the noncompliance is the lack of markings as required in FMVSS No. 205 and ANSI Z26.1 (1996).

NHTSA has reviewed Morgan's petition and for the reasons listed below, believes that in this case the noncompliance is inconsequential to vehicle safety.

There are two issues that are being addressed by the labeling and marking requirements of FMVSS No. 205. One is certification and the other is information on the glazing manufacturer and item of glazing.

Morgan stated that the wind deflector meets the requirements of FMVSS No. 205 (except marking requirements) for item of glazing number 6 (AS–6). In this particular situation NHTSA will allow Morgan's certification statement a surrogate for certification labeling.

The information on the glazing manufacturer and item of glazing could be relevant during replacement of the wind deflector. The probability of obtaining unmarked glazing is nonexistent since spare glazing is to be obtained through Morgan's dealers and the noncompliant population (139 items) is already mounted on the motorcycles and sold to customers.

In addition, Morgan stated that the glazing manufacturer has taken steps to correct the problem that caused the noncompliance.

In consideration of the foregoing, NHTSA has decided that Morgan has met its burden of persuasion that the FMVSS No. 205 noncompliance is inconsequential to motor vehicle safety. Accordingly, Morgan's petition is hereby granted and Morgan is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allows NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject noncompliant vehicles that Morgan no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Morgan notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–13194 Filed 6–5–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[OCC Charter Number 705852]

Sunshine State Federal Savings and Loan Association, Plant City, Florida; Approval of Conversion Application

Notice is hereby given that on May 14, 2014, the Office of the Comptroller of the Currency (OCC) approved the application of Sunshine State Federal Savings and Loan Association, Plant City, Florida, to convert to the stock form of organization. Copies of the application are available for inspection on the OCC Web site at the FOIA reading room *https://foia-pal.occ.gov/palMain.aspx* under Mutual to Stock Conversion Applications. If you have any questions, please contact OCC Licensing Activities at (202) 649–6260.

Dated: May 14, 2014.

By the Office of the Comptroller of the Currency.

Stephen A. Lybarger,

Deputy Comptroller for Licensing.

[FR Doc. 2014–13109 Filed 6–5–14; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of One (1) Individual Pursuant to Executive Order 13628 of October 9, 2012

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the name of one (1) individual designated on May 23, 2014, as an individual whose property and interests in property are blocked pursuant to Executive Order 13628 of October 9, 2012, ''Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Threat Reduction and Syria Human Rights Act of 2012 and Additional Sanctions With Respect to Iran.''

DATES: The designation by the Director of OFAC of the one (1) individual identified in this notice, pursuant to Executive Order 13628 of October 9, 2012, is effective May 23, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance and Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on demand service tel.: (202) 622–0077.

Background

On October 9, 2012, the President issued Executive Order 13628, ''Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Threat Reduction and Syria Human Rights Act of 2012 and Additional Sanctions With Respect to Iran'' (the ''Order''), pursuant to the International Emergency Economic Powers Act (50 U.S. C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Iran Sanctions Act of 1996 (Pub. L. 104–172) (50 U.S.C. 1701 note), as amended, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) (22 U.S.C. 8501 et seq.), as amended, the Iran Threat Reduction and Syria Human Rights Act of 2012 (Pub. L. 112–158) (22 U.S.C. 8701 et seq.), Section 212(f) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1182(f)), and Section 301 of title 3, United States Code.

Section 3 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person, of persons determined by the Secretary of the Treasury, in consultation with or at the recommendation of the Secretary of State, to satisfy certain criteria set forth in the Order.

On May 23, 2014, the Director of OFAC, in consultation with or at the recommendation of the Secretary of State, designated, pursuant to Section 3 of the Order, one (1) individual whose name has been added to the list of Specially Designated Nationals and Blocked Persons and whose property and interests in property are blocked. The listing for this individual is below.

Individual

1. TAMADDON, Morteza; DOB 1959; POB Shahr Kord-Isfahan, Iran; Additional Sanctions Information—Subject to Secondary Sanctions (individual) [IRAN–TRA].

Dated: May 23, 2014.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2014–13200 Filed 6–5–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held July 16, 2014.

FOR FURTHER INFORMATION CONTACT: Theresa Singleton at 1–888–912–1227 or 202–317–3329.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be held Wednesday, July 16, 2014 at 11:00 a.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Singleton. For more information please contact Ms. Singleton at 1–888–912–1227 or 202–317–3329, TAP Office, 1111 Constitution Avenue NW., Room 1509, National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to Tax Forms and Publications and public input is welcomed.

Dated: June 2, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–13205 Filed 6–5–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, July 10, 2014.

FOR FURTHER INFORMATION CONTACT: Donna Powers at 1–888–912–1227 or (954) 423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be held Thursday, July 10, 2014, at 2:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Donna Powers. For more information please contact Ms. Donna Powers at 1–888–912–1227 or (954) 423–7977, or write TAP Office, 1000 S. Pine Island Road, Plantation, FL 33324 or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to the Taxpayer Assistance Centers and public input is welcomed.

Dated: June 2, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–13201 Filed 6–5–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, July 17, 2014.

FOR FURTHER INFORMATION CONTACT: Ellen Smiley or Patti Robb at 1–888–912–1227 or 414–231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Thursday, July 17, 2014, at 2:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Ellen Smiley or Ms. Patti Robb. For more information please contact Ms. Smiley or Ms. Robb at 1–888–912–1227 or 414–231–2360, or write TAP Office Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or post comments to the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to Taxpayer Communications and public input is welcome.

Dated: June 2, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–13199 Filed 6–5–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, July 23, 2014.

FOR FURTHER INFORMATION CONTACT: Otis Simpson at 1–888–912–1227 or (202) 317–3332.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Wednesday, July 23, 2014, at 1:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Mr. Simpson. For more information please contact Otis Simpson at 1–888–912–1227 or (202) 317–3332 or write TAP Office, 1111 Constitution Avenue NW., Room 1509—National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org*.

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: June 2, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–13197 Filed 6–5–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, July 16, 2014.

FOR FURTHER INFORMATION CONTACT: Russ Pool at 1–888–912–1227 or 206–220–6542.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be held Wednesday, July 16, 2014, at 12 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Russ Pool. For more information please contact Mr. Pool at 1–888–912–1227 or 206–220–6542, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174, or contact us at the Web site: *http://www.improveirs.org*.

The agenda will include a discussion on various letters, and other issues related to written communications from the IRS.

Dated: June 2, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–13198 Filed 6–5–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, July 16, 2014.

FOR FURTHER INFORMATION CONTACT: Linda Rivera at 1–888–912–1227 or (202) 317–3337.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be held Wednesday, July 16, 2014 at 2:30 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Linda Rivera. For more information please contact: Ms. Rivera at 1–888–912–1227 or (202) 317–3337, or write TAP Office, 1111 Constitution Avenue NW., Room 1509, National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing Toll-free issues and public input is welcomed.

Dated: June 2, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–13202 Filed 6–5–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0393]

Proposed Information Collection (VAAR Part 813) Activity: Comment Request

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management (OM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to evaluate quotations received and to determine which quotation offers the best value in terms of price and other factors.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 5, 2014.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov*; or to Waleska Pierantoni-Monge, Office of Acquisition and Logistics (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; or email: *waleska.pierantoni-monge@va.gov.* Please refer to ''OMB Control No. 2900–0393'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Waleska Pierantoni-Monge at (202) 632–5400, Fax (202) 343–1434

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM's functions, including whether the information will have practical utility; (2) the accuracy of OM's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Department of Veterans Affairs Acquisition Regulation (VAAR) Part 813.

OMB Control Number: 2900–0393.

Type of Review: Extension of a currently approved collection.

Abstract: VA collects acquisition information from firms and individuals who wish to sell supplies, services, and construction or who wish to establish blanket purchase agreements (BPA) or other contractually related agreements with VA. VA uses the information collected to determine to whom to award contracts or with whom to enter into BPAs or other contractually related agreements.

Affected Public: Business or other for-profit and Not-for-profit institutions.

Estimated Annual Burden: 20,845 hours.

Estimated Average Burden per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Number of Respondents: 20,845.

Dated: June 3, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–13163 Filed 6–5–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0661]

Proposed Information Collection (Grants to States for Construction & Acquisition of State Home Facilities) Activity: Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to identify areas for improvement in clinical training programs.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 5, 2014.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov*; or to Audrey Revere, Office of Regulatory and Administrative Affairs, Veterans Health Administration (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email: *Audrey.revere@va.gov*. Please refer to ''OMB Control No. 2900–0661'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Audrey Revere at (202) 461–5694.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Forms for Grants to States for Construction and Acquisition of State Home Facilities, VA Forms 10–0388–1, 10–0388–2, 10–0388–3, 10–0388–4, 10–0388–5, 10–0388–6, 10–0388–7, 10–0388–8, 10–0388–9, 10–0388–10, 10–0388–12, 10–0388–13.

OMB Control Number: 2900–0661.

Type of Review: Revision of a currently approved collection.

Abstract: State governments complete VA Forms 10–0388–1, 10–0388–2, 10–0388–3, 10–0388–4, 10–0388–5, 10–0388–6, 10–0388–7, 10–0388–8, 10–0388–9, 10–0388–10, 10–0388–12, and 10–0388–13, to apply for State Home Construction Grant Program and to certify compliance with VA requirements. VA uses this information, along with other documents submitted by States, to determine the feasibility of the projects for VA participation to determine eligibility for a grant award.

Affected Public: State, Local, or Tribal Governments.

Estimated Annual Burden: 1,200 hours.

Estimated Average Burden per Respondent: 24 hours.

Frequency of Response: On occasion.

Estimated Annual Responses: 50.

Dated: June 2, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2014–13088 Filed 6–5–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0606]

Agency Information Collection (Collection or Recovery by VA for Medical Care or Services Provided or Furnished to a Veteran for a Nonservice-Connected Disability) Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice

announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 7, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0606 (Collection or Recovery by VA for Medical Care or Services Provided or Furnished to a Veteran for a Nonservice-Connected Disability)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0606 (Collection or Recovery by VA for Medical Care or Services Provided or Furnished to a Veteran for a Nonservice-Connected Disability)'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Supplementary Information:

Title: Collection or Recovery by VA for Medical Care or Services Provided or Furnished to a Veteran for a Nonservice-Connected Disability.

OMB Control Number: 2900–0606.

Type of Review: Revision of a currently approved collection.

Abstract: Public Law 105–33 amended the statutory provision of 38 U.S.C. 1729 to authorize VA to bill ''reasonable charges'' instead of ''reasonable cost'' for medical care or services provided or furnished to a Veteran:

(a) For a non-service connected disability for which the Veteran is entitled to care (or the payment of expenses of care) under a health-plan contract;

(b) For a non-service connected disability incurred incident to the Veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or

(c) For a non-service connected disability incurred as a result of a motor vehicle accident in a State that requires automobile accident reparations insurance.

''Reasonable charges'' are collected from available data (that includes complexity of care, degree of skill, provider specialty, and third party payer prevailing charges in other area) to set the local market charges for each geographic area where VA provides care. ''Reasonable cost'', on the other hand, does not factor all of these criteria and can impact the amount reimbursed to the VA. In the circumstances described above, third party payers set their allowable rate structure for compensable care based on their payment methodology, thus the importance in obtaining this information to ensure VA is reimbursed similarly to non-government entities. VA also utilizes reasonable charges to settle subrogated claims for worker's compensation or motor vehicle accidents.

Affected Public: Individuals or households.

Estimated Annual Burden: 800 hours.

Estimated Average Burden per Respondent: Two hours.

Frequency of Response: Annually.

Estimated Annual Responses: 800.

Dated: June 3, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2014–13159 Filed 6–5–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0161]

Agency Information Collection (Medical Expense Report) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 7, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0161'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0161.''

SUPPLEMENTARY INFORMATION: *Title:* Medical Expense Report, VA Form 21–8416.

OMB Control Number: 2900–0161.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–8416 is completed by claimants in receipt of or claiming income-based benefits to report medical expenses paid. Unreimbursed medical expenses may be excluded as countable income in determining a claimant's entitlement to

income-based benefits and the rate payable.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 15, 2014, at pages 2754–2755.

Affected Public: Individuals or households.

Estimated Annual Burden: 96,400 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 48,200.

Dated: June 2, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–13081 Filed 6–5–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection (The Veterans' Outcome Assessment (VOA) (Veteran Survey Interview)) Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 7, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–NEW (The Veterans' Outcome Assessment (VOA) (Veteran Survey Interview))'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–NEW (The Veterans' Outcome Assessment (VOA) (Veteran Survey Interview))'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Supplementary Information:

Title: The Veterans' Outcome Assessment (VOA) (Veteran Survey Interview), VA Form 10–XXXXX.

OMB Control Number: New 2900–NEW. The Veterans' Outcome Assessment (VOA) (Veteran Survey Interview).

Type of Review: New collection.

Abstract: This collection is in response to the requirements set out by The National Defense Authorization Act of Fiscal Year 2013 (NDAA). The National Defense Authorization Act of Fiscal Year 2013 (NDAA) requires VA to ''develop and implement a comprehensive set of measures to assess mental health care services furnished by the Department of Veterans Affairs. The workgroup therefore developed a plan for a brief survey of a representative sample of new mental health treatment patients. Data collected will allow the program office to ensure that the target audience is being reached effective treatments are being offered, and tangible, quantitative results are being measured and tracked for continual improvement.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 2,140 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 4,280.

Dated: June 3, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2014–13157 Filed 6–5–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0711]

Agency Information Collection Activity (VBA Loan Guaranty Service Lender Satisfaction Survey) Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 7, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0711'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records

Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0711.''

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Veterans Benefits Administration (VBA) Loan Guaranty Service Lender Satisfaction Survey.

OMB Control Number: 2900–0711.

Type of Review: Revision of a currently approved collection.

Abstract: The survey will be used to gather information from lenders about VA Loan Guaranty Program. The information collected will allow the VA to determine lenders satisfaction with the VA's processes and to make improvements to the program to better serve the needs of eligible Veterans.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 20, 2014, at page 5029.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 251.5 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,006.

Dated: June 2, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–13080 Filed 6–5–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 79 Friday,

No. 109 June 6, 2014

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Wharf Construction Project; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD282

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Wharf Construction Project

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to construction activities as part of a wharf construction project. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to the Navy to incidentally take marine mammals, by Level B Harassment only, during the specified activity.

DATES: Comments and information must be received no later than July 7, 2014.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Supervisor, Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Laws@noaa.gov*.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted to the Internet at *www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of the Navy's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental.htm*. In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

National Environmental Policy Act (NEPA)

The Navy prepared an Environmental Impact Statement (EIS) for this project. We acted as a cooperating agency on development of that analysis and subsequently adopted the EIS and issued our own Record of Decision (ROD; 2012), prior to issuing the first IHA for this project, in accordance with NEPA and the regulations published by the Council on Environmental Quality. We reaffirmed the existing 2012 ROD before issuing an IHA in 2013 for the second year of project construction. Information in the Navy's application, the Navy's EIS (2012), and this notice collectively provide the environmental information related to proposed issuance of this IHA for public review and comment. All documents are available at the aforementioned Web site, with the exception of the Navy's EIS, which is publicly available at *www.nbkeis.com* (accessed May 2, 2014). We will review all comments submitted in response to this notice as we complete the NEPA process, including a decision of whether to reaffirm the existing ROD, prior to a final decision on the incidental take authorization request.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified area, the incidental, but not intentional, taking of small numbers of marine mammals, providing that certain findings are made and the necessary prescriptions are established.

The incidental taking of small numbers of marine mammals may be allowed only if NMFS (through authority delegated by the Secretary) finds that the total taking by the specified activity during the specified time period will (i) have a negligible impact on the species or stock(s) and (ii) not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking must be set forth, either in specific regulations or in an authorization.

The allowance of such incidental taking under section 101(a)(5)(A), by harassment, serious injury, death, or a combination thereof, requires that regulations be established. Subsequently, a Letter of Authorization may be issued pursuant to the prescriptions established in such regulations, providing that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations. Under section 101(a)(5)(D), NMFS may authorize such incidental taking by harassment only, for periods of not more than one year, pursuant to requirements and conditions contained within an IHA. The establishment of prescriptions through either specific regulations or an authorization requires notice and opportunity for public comment.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild; or has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering. The former is termed Level A harassment and the latter is termed Level B harassment.

Summary of Request

On January 10, 2014, we received a request from the Navy for authorization to take marine mammals incidental to pile driving associated with the construction of an explosives handling wharf (EHW–2) in the Hood Canal at Naval Base Kitsap in Bangor, WA (NBKB). The Navy submitted a revised version of the request on April 11, 2014, which we deemed adequate and complete. The Navy proposes to continue this multi-year project, involving impact and vibratory pile driving conducted within the approved

in-water work window. This IHA would cover only the third year (in-water work window) of the project, from July 16, 2014, through February 15, 2015.

The use of both vibratory and impact pile driving is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals. Species with the expected potential to be present during all or a portion of the in-water work window include the Steller sea lion (*Eumetopias jubatus monteriensis*), California sea lion (*Zalophus californianus*), harbor seal (*Phoca vitulina richardii*), killer whale (transient only; *Orcinus orca*), and harbor porpoise (*Phocoena phocoena vomerina*). These species may occur year-round in the Hood Canal, with the exception of the Steller sea lion, which is present only from fall to late spring (approximately late September to early May), and the California sea lion, which is only present from late summer to late spring (approximately late August to early June).

This would be the third such IHA, if issued. The Navy received IHAs, effective from July 16–February 15, in 2012–13 (77 FR 42279) and 2013–14 (78 FR 43148). Additional IHAs were issued to the Navy in recent years for marine construction projects on the NBKB waterfront. These projects include the Test Pile Project (TPP), conducted in 2011–12 in the proposed footprint of the EHW–2 to collect geotechnical data and test methodology in advance of EHW–2 (76 FR 38361); a two-year maintenance project on the existing explosives handling wharf (EHW–1) conducted in 2011–12 and 2012–13 (76 FR 30130 and 77 FR 43049); and a minor project to install a new mooring for an existing research barge, conducted in 2013–14 (78 FR 43165). In-water work associated with all projects was conducted only during the approved in-water work window (July 16–February 15). Monitoring reports for all of these projects are available on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental.htm* and provide environmental information related to proposed issuance of this IHA for public review and comment.

Description of the Specified Activity

Overview

NBKB provides berthing and support services to Navy submarines and other fleet assets. The Navy proposes to continue construction of the EHW–2 facility at NBKB in order to support future program requirements for submarines berthed at NBKB. The Navy has determined that construction of EHW–2 is necessary because the existing EHW alone will not be able to support future program requirements. All piles would be driven with a vibratory hammer for their initial embedment depths, while select piles may be finished with an impact hammer for proofing, as necessary. A maximum of three vibratory drivers and one impact driver may be used simultaneously. Proofing involves striking a driven pile with an impact hammer to verify that it provides the required load-bearing capacity, as indicated by the number of hammer blows per foot of pile advancement. Sound attenuation measures (i.e., bubble curtain) would be used during all impact hammer operations.

Dates and Duration

The allowable season for in-water work, including pile driving, at NBKB is July 16 through February 15, a window established by the Washington Department of Fish and Wildlife in coordination with NMFS and the U.S. Fish and Wildlife Service (USFWS) to protect juvenile salmon. Under the proposed action—which includes only the portion of the project that would be completed under this proposed IHA—a maximum of 195 pile driving days would occur. Pile driving may occur on any day during the in-water work window.

Impact pile driving during the first half of the in-water work window (July 16 to September 15) may only occur between two hours after sunrise and two hours before sunset to protect breeding marbled murrelets (an Endangered Species Act [ESA]-listed bird under the jurisdiction of USFWS). Vibratory driving during the first half of the window, and all in-water work conducted between September 16 and February 15, may occur during daylight hours (sunrise to sunset). Other construction (not in-water) may occur between 7:00 a.m. and 10:00 p.m., year-round. Therefore, in-water work is restricted to daylight hours (at minimum) and there is at least a nine-hour break during the 24-hour cycle from all construction activity.

Specific Geographic Region

NBKB is located on the Hood Canal approximately 32 km west of Seattle, Washington (see Figures 2–1 through 2–4 in the Navy's application). The Hood Canal is a long, narrow fjord-like basin of the western Puget Sound. Throughout its 108-km length, the width of the canal varies from 1.6–3.2 km and exhibits strong depth/elevation gradients and irregular seafloor topography in many areas. Although no official boundaries exist along the waterway, the northeastern section extending from the mouth of the canal at Admiralty Inlet to the southern tip of Toandos Peninsula is referred to as northern Hood Canal. NBKB is located within this region. Please see Section 2 of the Navy's application for detailed information about the specific geographic region, including physical and oceanographic characteristics.

Detailed Description of Activities

Development of necessary facilities for handling of explosive materials is part of the Navy's sea-based strategic deterrence mission. The EHW–2 consists of two components: (1) The wharf proper (or Operations Area), including the warping wharf; and (2) two access trestles. Please see Figures 1–1 and 1–2 of the Navy's application for conceptual and schematic representations of the EHW–2.

The wharf proper will lie approximately 183 m offshore at water depths of 18–30 m, and will consist of the main wharf, a warping wharf, and lightning protection towers, all pile-supported. It will include a slip (docking area) for submarines, surrounded on three sides by operational wharf area. The access trestles will connect the wharf to the shore. There will be an entrance trestle and an exit trestle; these will be combined over shallow water to reduce overwater area. The trestles will be pile-supported on 24-in steel pipe piles driven approximately 9 m into the seafloor. Spacing between bents (rows of piles) will be 8 m. Concrete pile caps will be cast in place and will support pre-cast concrete deck sections.

For the entire project, a total of up to 1,250 permanent piles ranging in size between 24–48 inches in diameter will be driven in-water to construct the wharf. Construction also requires temporary installation of up to 150 falsework piles used as an aid to guide permanent piles to their proper locations. Falsework piles, which are removed upon installation of the permanent piles, are usually steel pipe piles and are driven and removed using a vibratory driver. It has not been determined exactly what parts or how much of the project will be constructed in any given year; however, a maximum of 195 days of pile driving may occur per in-water work window. The analysis contained herein is based upon the maximum of 195 pile driving days, rather than any specific number of piles driven. Table 1 summarizes the number and nature of piles required for the entire project, rather than what subset of piles may be expected to be driven

during the third year of construction proposed for this IHA.

TABLE 1—SUMMARY OF PILES REQUIRED FOR WHARF CONSTRUCTION

[in total]

Feature	Quantity
Total number of permanent in-water piles.	Up to 1,250.
Size and number of main wharf piles.	24-in: 140. 36-in: 157. 48-in: 263.
Size and number of warping wharf piles.	24-in: 80. 36-in: 190.
Size and number of lightning tower piles.	24-in: 40. 36-in: 90.
Size and number of trestle piles.	24-in: 57. 36-in: 233.
Falsework piles	Up to 150, 18- to 24-in.
Maximum pile driving duration.	195 days (under one-year IHA).

Pile installation will utilize vibratory pile drivers to the greatest extent possible, and the Navy anticipates that most piles will be able to be vibratory driven to within several feet of the required depth. Pile drivability is, to a large degree, a function of soil conditions and the type of pile hammer. The soil conditions encountered during geotechnical explorations at NBKB indicate existing conditions generally consist of fill or sediment of very dense glacially overridden soils. Recent experience at other construction locations along the NBKB waterfront indicates that most piles should be able to be driven with a vibratory hammer to proper embedment depth. However, difficulties during pile driving may be encountered as a result of obstructions, such as rocks or boulders, which may exist throughout the project area. If difficult driving conditions occur, increased usage of an impact hammer will occur.

Unless difficult driving conditions are encountered, an impact hammer will only be used to proof the load-bearing capacity of approximately every fourth or fifth pile. The industry standard is to proof every pile with an impact hammer; however, in an effort to reduce blow counts from the impact hammer, the engineer of record has agreed to only proof every fourth or fifth pile. A maximum of 200 strikes would be required to proof each pile. Pile production rates are dependent upon required embedment depths, the potential for encountering difficult driving conditions, and the ability to drive multiple piles without a need to relocate the driving rig. Under best-case scenarios (i.e., shallow piles, driving in optimal conditions, using multiple driving rigs), it may be possible to install enough pilings with the vibratory hammer that proofing may be required for up to five piles in a day. Under this scenario, with a single impact hammer used to proof up to five piles per day at 200 strikes per pile, it is estimated that up to a maximum of 1,000 strikes from an impact hammer would be required per day.

If difficult subsurface driving conditions (e.g., cobble/boulder zones) are encountered that cause refusal with the vibratory equipment, it may be necessary to use an impact hammer to drive some piles for the remaining portion of their required depth. The worst-case scenario is that a pile would be driven for its entire length using an impact hammer. Given the uncertainty regarding the types and quantities of boulders or cobbles that may be encountered, and the depth at which they may be encountered, the number of strikes necessary to drive a pile its entire length could be approximately 1,000 to 2,000 strikes per pile. The Navy estimates that a possible worst-case daily scenario would require driving three piles full length (at a worst-case of 2,000 strikes per pile) after the piles have become hung on large boulders early in the installation process, with proofing of an additional two piles (at 200 strikes each) that were able to be installed primarily via vibratory means. This worst-case scenario would therefore result in a maximum of 6,400 strikes per day. All piles driven or struck with an impact hammer would be surrounded by a bubble curtain over the full water column to minimize in-water sound. Up to three vibratory rigs and one impact rig may be used at a time. Pile production rate (number of piles driven per day) is affected by many factors: Size, type (vertical versus angled), and location of piles; weather; number of driver rigs operating; equipment reliability; geotechnical (subsurface) conditions; and work stoppages for security or environmental reasons (such as presence of marine mammals).

Description of Work Accomplished—During the first in-water work season, the contractor completed installation of 184 piles to support the main segment of the access trestle. Driven piles ranged in size from 24- to 36-in at depths ranging from 0 to 15 m. A maximum of two vibratory pile drivers and one impact hammer were operated concurrently.

During the second season, installation of 411 total piles was completed, including all 315 of the wharf deck plumb piles (non-fender) and 24 of the 34 total wharf deck Lead Rubber Bearing (LRB) dolphins (clusters of four piles per dolphin). Installed piles ranged in size from 36- to 48-in at depths ranging from 12–29 m. As before, a maximum two vibratory pile drivers and one impact hammer were operated concurrently.

During the third season, the Navy expects to complete installation of the wharf deck LRBs, piling support for the warping wharf, lightning towers, and trestle deck closure as well as all fender piles. The Navy expects to complete the project in January 2016. The amount of progress made under this proposed IHA, if issued, would determine necessity of a fourth IHA for the 2015–16 in-water work window.

Description of Marine Mammals in the Area of the Specified Activity

There are eight marine mammal species with recorded occurrence in the Hood Canal during the past fifteen years, including five cetaceans and three pinnipeds. The harbor seal resides year-round in Hood Canal, while the Steller sea lion and California sea lion inhabit Hood Canal during portions of the year. Harbor porpoises may transit through the project area and occur regularly in Hood Canal, while transient killer whales could be present in the project area but do not have regular occurrence in the Hood Canal. The Dall's porpoise (*Phocoenoides dalli dalli*), humpback whale (*Megaptera novaeangliae*), and gray whale (*Eschrichtius robustus*) have been observed in Hood Canal, but their presence is sufficiently rare that we do not believe there is a reasonable likelihood of their occurrence in the project area during the proposed period of validity for this IHA. The latter three species are not carried forward for further analysis beyond this section.

We have reviewed the Navy's detailed species descriptions, including life history information, for accuracy and completeness and refer the reader to Sections 3 and 4 of the Navy's application instead of reprinting the information here. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals*) for generalized species accounts and to the Navy's Marine Resource Assessment for the Pacific Northwest, which documents and describes the marine resources that occur in Navy operating areas of the Pacific Northwest, including Puget Sound (DoN, 2006). The document is publicly available at *www.navfac.navy.mil/products_and_services/ev/products_and_services/marine_resources/marine_resource_assessments.html* (accessed May 2, 2014).

Table 2 lists the marine mammal species with expected potential for occurrence in the vicinity of NBKB during the project timeframe and summarizes key information regarding stock status and abundance. Taxonomically, we follow Committee on Taxonomy (2014). Please see NMFS' Stock Assessment Reports (SAR), available at *www.nmfs.noaa.gov/pr/sars,* for more detailed accounts of these stocks' status and abundance. The harbor seal, California sea lion and harbor porpoise are addressed in the Pacific SARs (e.g., Carretta *et al.,* 2013a), while the Steller sea lion and transient killer whale are treated in the Alaska SARs (e.g., Allen and Angliss, 2013a).

In the species accounts provided here, we offer a brief introduction to the species and relevant stock as well as available information regarding population trends and threats, and describe any information regarding local occurrence.

TABLE 2—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF NBKB

Species	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]	Relative occurrence in Hood Canal; season of occurrence
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae						
Killer whale	West coast transient.[5 6]	—;N	243 (n/a; 2006).	2.4	0	Rare; year-round (but last observed in 2005).
Family Phocoenidae (porpoises)						
Harbor porpoise	Washington inland waters.[7]	—;N	10,682 (0.38; 7,841; 2003).	63	≥2.2	Possible regular presence; year-round.
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
California sea lion	U.S.	—; N	296,750 (n/a; 153,337; 2008).	9,200	≥431	Seasonal/common; Fall to late spring (Aug to Jun).
Steller sea lion	Eastern U.S.[5]	—; N[8]	63,160–78,198 (n/a; 57,966; 2008–11)[9].	[10] 1,552	65.1	Seasonal/occasional; Fall to late spring (Sep to May).
Family Phocidae (earless seals)						
Harbor seal	Washington inland waters.[7]	—; N	14,612 (0.15; 12,844; 1999).	771	13.4	Common; Year-round resident.

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (—) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For killer whales, the abundance values represent direct counts of individually identifiable animals; therefore there is only a single abundance estimate with no associated CV. For certain stocks of pinnipeds, abundance estimates are based upon observations of animals (often pups) ashore multiplied by some correction factor derived from knowledge of the specie's (or similar species') life history to arrive at a best abundance estimate; therefore, there is no associated CV. In these cases, the minimum abundance may represent actual counts of all animals ashore.

[3] Potential biological removal, defined by the MMPA 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 optimum sustainable population size (OSP).

[4] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value. All values presented here are from the draft 2013 SARs (*www.nmfs.noaa.gov/pr/sars/draft.htm*).

[5] Abundance estimates (and resulting PBR values) for these stocks are new values presented in the draft 2013 SARs. This information was made available for public comment and is currently under review and therefore may be revised prior to finalizing the 2013 SARs. However, we consider this information to be the best available for use in this document.

[6] The abundance estimate for this stock includes only animals from the ''inner coast'' population occurring in inside waters of southeastern Alaska, British Columbia, and Washington—excluding animals from the ''outer coast'' subpopulation, including animals from California—and therefore should be considered a minimum count. For comparison, the previous abundance estimate for this stock, including counts of animals from California that are now considered outdated, was 354.

[7] Abundance estimates for these stocks are greater than eight years old and are therefore not considered current. PBR is considered undetermined for these stocks, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates and PBR values, as these represent the best available information for use in this document.

[8] The eastern distinct population segment of the Steller sea lion, previously listed under the ESA as threatened, was delisted on December 4, 2013 (78 FR 66140; November 4, 2013). Because this stock is not below its OSP size and the level of direct human-caused mortality does not exceed PBR, this delisting action implies that the stock is no longer designated as depleted or as a strategic stock under the MMPA.

[9] Best abundance is calculated as the product of pup counts and a factor based on the birth rate, sex and age structure, and growth rate of the population. A range is presented because the extrapolation factor varies depending on the vital rate parameter resulting in the growth rate (i.e., high fecundity or low juvenile mortality).

[10] PBR is calculated for the U.S. portion of the stock only (excluding animals in British Columbia) and assumes that the stock is not within its OSP. If we assume that the stock is within its OSP, PBR for the U.S. portion increases to 2,069.

Although present in Washington inland waters in small numbers (Falcone *et al.,* 2005), primarily in the Strait of Juan de Fuca and San Juan Islands but also occasionally in Puget Sound, the humpback whale is not typically present in Hood Canal. Archived sighting records show no confirmed observations from 2001–11 (*www.orcanetwork.org;* accessed May 5, 2014), and no records are found in the literature. In January–February 2012, one individual was observed in Hood Canal repeatedly over a period of several weeks. No sightings have been recorded since that time.

Gray whales generally migrate southbound past Washington in late December and January, and transit past Washington on the northbound return in March to May. Gray whales do not generally make use of Washington inland waters, but have been observed in certain portions of those waters in all months of the year, with most records occurring from March through June (Calambokidis *et al.,* 2010; *www.orcanetwork.org*) and associated with regular feeding areas. Usually fewer than twenty gray whales visit the inner marine waters of Washington and British Columbia beginning in about January, and six to ten of these are individual whales that return most years to feeding sites in northern Puget Sound. The remaining individuals occurring in any given year generally appear unfamiliar with feeding areas, often arrive emaciated, and commonly die of starvation (WDFW, 2012). Gray whales have been sighted in Hood Canal on six occasions since 1999 (including a stranded whale), with the most recent report in November 2010 (*www.orcanetwork.org*).

In Washington, Dall's porpoises are most abundant in offshore waters where they are year-round residents, although interannual distribution is highly variable (Green *et al.,* 1992). In inland waters, Dall's porpoises are most frequently observed in the Strait of Juan de Fuca and Haro Strait between San Juan Island and Vancouver Island (Nysewander *et al.,* 2005), but are seen occasionally in southern Puget Sound and may also occasionally occur in Hood Canal. Only a single Dall's porpoise has been observed at NBKB, in deeper water during a 2008 summer survey conducted by the Navy (Tannenbaum *et al.,* 2009). On the basis of this single observation, we previously assumed it appropriate to authorize incidental take of this species. However, there have been no subsequent observations of Dall's porpoises in Hood Canal during either dedicated vessel line-transect surveys or project-specific monitoring and we no longer believe that the species may be reasonably expected to be present in the action area.

Steller Sea Lion

Steller sea lions are distributed mainly around the coasts to the outer continental shelf along the North Pacific rim from northern Hokkaido, Japan through the Kuril Islands and Okhotsk Sea, Aleutian Islands and central Bering Sea, southern coast of Alaska and south to California (Loughlin *et al.,* 1984). Based on distribution, population response, and phenotypic and genotypic data, two separate stocks of Steller sea lions are recognized within U.S. waters, with the population divided into western and eastern distinct population segments (DPS) at 144°W (Cape Suckling, Alaska) (Loughlin, 1997). The eastern DPS extends from California to Alaska, including the Gulf of Alaska, and is the only stock that may occur in the Hood Canal.

According to NMFS' recent status review (NMFS, 2013), the best available information indicates that the overall abundance of eastern DPS Steller sea lions has increased for a sustained period of at least three decades while pup production has also increased significantly, especially since the mid-1990s. Johnson and Gelatt (2012) provided an analysis of growth trends of the entire eastern DPS from 1979–2010, indicating that the stock increased during this period at an annual rate of 4.2 percent (90% CI 3.7–4.6). Most of the overall increase occurred in the northern portion of the range (southeast Alaska and British Columbia), but pup counts in Oregon and California also increased significantly (e.g., Merrick *et al.,* 1992; Sease *et al.,* 2001; Olesiuk and Trites, 2003; Fritz *et al.* 2008; Olesiuk, 2008; NMFS, 2008, 2013). In Washington, Pitcher *et al.* (2007) reported that Steller sea lions, presumably immature animals and non-breeding adults, regularly used four haul-outs, including two ''major'' haul-outs (>50 animals). The same study reported that the numbers of sea lions counted between 1989 and 2002 on Washington haul-outs increased significantly (average annual rate of 9.2 percent) (Pitcher *et al.,* 2007). Although the stock size has increased, its status relative to OSP size is unknown. However, the consistent long-term estimated annual rate of increase may indicate that the stock is reaching OSP size (Allen and Angliss, 2013a).

Data from 2005–10 show a total mean annual mortality rate of 5.71 (CV = 0.23) sea lions per year from observed fisheries and 11.25 reported takes per year that could not be assigned to specific fisheries, for an approximate total from all fisheries of 17 eastern Steller sea lions (Allen and Angliss, 2013a). In addition, opportunistic observations and stranding data indicate that an additional 32 animals are killed or seriously injured each year through interaction with commercial and recreational troll fisheries and by entanglement (Allen and Angliss, 2013b). The annual average take for subsistence harvest in Alaska was 11.9 individuals in 2004–08 (Allen and Angliss, 2013a). Data on community subsistence harvests is no longer being collected, and this average is retained as an estimate for current and future subsistence harvest. Sea lion deaths are also known to occur because of illegal shooting, vessel strikes, or capture in research gear and other traps, totaling 4.2 animals per year from 2007–11 (Allen and Angliss, 2013b). The total annual human-caused mortality is a minimum estimate because takes via fisheries interactions and subsistence harvest in Canada are poorly known, although are believed to be small.

The eastern stock breeds in rookeries located in southeast Alaska, British Columbia, Oregon, and California. There are no known breeding rookeries in Washington (Allen and Angliss, 2013a) but eastern stock Steller sea lions are present year-round along the outer coast of Washington, including immature animals or non-breeding adults of both sexes. In 2011, the minimum count for Steller sea lions in Washington was 1,749 (Allen and Angliss, 2013b), up from 516 in 2001 (Pitcher *et al.,* 2007).

In Washington, Steller sea lions primarily occur at haul-out sites along the outer coast from the Columbia River to Cape Flattery and in inland waters sites along the Vancouver Island coastline of the Strait of Juan de Fuca (Jeffries *et al.,* 2000; Olesiuk and Trites, 2003; Olesiuk, 2008). Numbers vary seasonally in Washington waters with peak numbers present during the fall and winter months (Jeffries *et al.,* 2000). Beginning in 2008, Steller sea lions have been observed at NBKB hauled out on submarines at Delta Pier (located approximately 1.25 km south of the project site) during fall through spring months, with September 26 as the earliest documented arrival. When Steller sea lions are present, there are typically one to four individuals, with a maximum observed group size of eleven.

Harbor Seal

Harbor seals inhabit coastal and estuarine waters and shoreline areas of the northern hemisphere from temperate to polar regions. The eastern North Pacific subspecies is found from Baja California north to the Aleutian Islands and into the Bering Sea. Multiple lines of evidence support the existence of geographic structure among harbor seal populations from California to Alaska (e.g., O'Corry-Crowe *et al.,* 2003; Temte, 1986; Calambokidis *et al.,* 1985; Kelly, 1981; Brown, 1988; Lamont, 1996; Burg, 1996). Harbor seals are generally non-migratory, and analysis of genetic information suggests that genetic differences increase with geographic distance (Westlake and O'Corry-Crowe, 2002). However, because stock boundaries are difficult to meaningfully draw from a biological perspective, three separate harbor seal stocks are recognized for management purposes along the west coast of the continental U.S.: (1) Inland waters of Washington (including Hood Canal, Puget Sound, and the Strait of Juan de Fuca out to Cape Flattery), (2) outer coast of Oregon and Washington, and (3) California (Carretta *et al.,* 2013a). Multiple stocks are recognized in Alaska. Samples from Washington, Oregon, and California demonstrate a high level of genetic diversity and indicate that the harbor seals of Washington inland waters possess unique haplotypes not found in seals from the coasts of Washington, Oregon, and California (Lamont *et al.,* 1996). Only the Washington inland waters stock may be found in the project area.

Recent genetic evidence suggests that harbor seals of Washington inland waters may have sufficient population structure to warrant division into multiple distinct stocks (Huber *et al.,* 2010, 2012). Based on studies of pupping phenology, mitochondrial DNA, and microsatellite variation, Carretta *et al.* (2013b) suggest division of the Washington inland waters stock into three new populations, and present these as prospective stocks: (1) Southern Puget Sound (south of the Tacoma Narrows Bridge); (2) Washington northern inland waters (including Puget Sound north of the Tacoma Narrows Bridge, the San Juan Islands, and the Strait of Juan de Fuca); and (3) Hood Canal. Until this stock structure is accepted, we consider a single Washington inland waters stock.

The best available abundance estimate was derived from aerial surveys of harbor seals in Washington conducted during the pupping season in 1999, during which time the total numbers of hauled-out seals (including pups) were counted (Jeffries *et al.,* 2003). Radio-tagging studies conducted at six locations collected information on harbor seal haul-out patterns in 1991–92, resulting in a pooled correction factor (across three coastal and three inland sites) of 1.53 to account for animals in the water which are missed during the aerial surveys (Huber *et al.,* 2001), which, coupled with the aerial survey counts, provides the abundance estimate (see Table 2).

Harbor seal counts in Washington State increased at an annual rate of six percent from 1983–96, increasing to ten percent for the period 1991–96 (Jeffries *et al.,* 1997). The population is thought to be stable, and the Washington inland waters stock is considered to be within its OSP size (Jeffries *et al.,* 2003).

Data from 2007–11 indicate that a minimum of four harbor seals are killed annually in Washington inland waters commercial fisheries, while mean annual mortality for recreational fisheries is one seal (Carretta *et al.,* 2013b). Animals captured east of Cape Flattery are assumed to belong to this stock. The estimate is considered a minimum because there are likely additional animals killed in unobserved fisheries and because not all animals stranding as a result of fisheries interactions are likely to be recorded. Another 8.4 harbor seals per year are estimated to be killed as a result of various non-fisheries human interactions (Carretta *et al.,* 2013b). Tribal subsistence takes of this stock may occur, but no data on recent takes are available.

Harbor seals are the most abundant marine mammal in Hood Canal, where they can occur anywhere year-round and are considered resident, and are the only pinniped that breeds in inland Washington waters (Jeffries *et al.,* 2003). They are year-round, non-migratory residents, pup (i.e., give birth) in Hood Canal, and the population is considered closed, meaning that they do not have much movement outside of Hood Canal (London, 2006). Surveys in the Hood Canal from the mid-1970s to 2000 show a fairly stable population between 600–1,200 seals, and the abundance of harbor seals in Hood Canal has likely stabilized at its carrying capacity of approximately 1,000 seals (Jeffries *et al.,* 2003). Harbor seals have been consistently sighted during Navy surveys, found in all marine habitats including nearshore waters and deeper water, and have been observed hauled out on manmade objects such as buoys (Agness and Tannenbaum, 2009; Tannenbaum *et al.,* 2009, 2011). Harbor seals were commonly observed in the water during monitoring conducted for other projects at NBKB in 2011–13 (HDR, 2012a, 2012b; Hart Crowser, 2013).

There are no known pupping or regular haul-out sites in the project area, as harbor seals in Hood Canal prefer river deltas and exposed tidal areas (London, 2006). The closest haul-out to the project area is approximately 16 km southwest of NBKB at Dosewallips River mouth, outside the potential area of effect for this project (see Figure 4–1 of the Navy's application). During most of the year, all age and sex classes (except neonates) occur in the project area throughout the period of construction activity. Because there are no known regular pupping sites in the vicinity of the project area, harbor seal neonates would not generally be expected to be present during pile driving. However, pupping has been observed on the NBKB waterfront at Carderock Pier and Service Pier (both locations over a mile south of the project site), and a harbor seal neonate was observed on a small floating dock near the project site in 2013.

California Sea Lion

California sea lions range from the Gulf of California north to the Gulf of Alaska, with breeding areas located in the Gulf of California, western Baja California, and southern California. Five genetically distinct geographic populations have been identified: (1) Pacific temperate, (2) Pacific subtropical, and (3–5) southern, central, and northern Gulf of California (Schramm *et al.,* 2009). Rookeries for the Pacific temperate population are found within U.S. waters and just south of the U.S.-Mexico border, and animals belonging to this population may be found from the Gulf of Alaska to

Mexican waters off Baja California. For management purposes, a stock of California sea lions comprising those animals at rookeries within the U.S. is defined (i.e., the U.S. stock of California sea lions) (Carretta *et al.,* 2013a). Pup production at the Coronado Islands rookery in Mexican waters is considered an insignificant contribution to the overall size of the Pacific temperate population (Lowry and Maravilla-Chavez, 2005).

Trends in pup counts from 1975 through 2008 have been assessed for four rookeries in southern California and for haul-outs in central and northern California. During this time period counts of pups increased at an annual rate of 5.4 percent, excluding six El Nino years when pup production declined dramatically before quickly rebounding (Carretta *et al.,* 2013a). The maximum population growth rate was 9.2 percent when pup counts from the El Niño years were removed. There are indications that the California sea lion may have reached or is approaching carrying capacity, although more data are needed to confirm that leveling in growth persists (Carretta *et al.,* 2013a).

Data from 2003–09 indicate that a minimum of 337 (CV = 0.56) California sea lions are killed annually in commercial fisheries. In addition, a summary of stranding database records for 2005–09 shows an annual average of 65 such events, which is likely a gross underestimate because most carcasses are not recovered. California sea lions may also be removed because of predation on endangered salmonids (seventeen per year, 2008–10) or incidentally captured during scientific research (three per year, 2005–09) (Carretta *et al.,* 2013a). Sea lion mortality has also been linked to the algal-produced neurotoxin domoic acid (Scholin *et al.,* 2000). Future mortality may be expected to occur, due to the sporadic occurrence of such harmful algal blooms. There is currently an Unusual Mortality Event (UME) declaration in effect for California sea lions. Beginning in January 2013, elevated strandings of California sea lion pups have been observed in southern California, with live sea lion strandings nearly three times higher than the historical average. Findings to date indicate that a likely contributor to the large number of stranded, malnourished pups was a change in the availability of sea lion prey for nursing mothers, especially sardines. The causes and mechanisms of this UME remain under investigation (*www.nmfs.noaa.gov/pr/health/mmume/californiasealions2013.htm;* accessed May 8, 2014).

An estimated 3,000 to 5,000 California sea lions migrate northward along the coast to central and northern California, Oregon, Washington, and Vancouver Island during the non-breeding season from September to May (Jeffries *et al.,* 2000) and return south the following spring (Mate, 1975; Bonnell *et al.,* 1983). Peak numbers of up to 1,000 California sea lions occur in Puget Sound (including Hood Canal) during this time period (Jeffries *et al.,* 2000).

California sea lions are present in Hood Canal during much of the year with the exception of mid-June through August, and occur regularly at NBKB, as observed during Navy waterfront surveys conducted from April 2008 through December 2013 (DoN, 2013). They are known to utilize a diversity of man-made structures for hauling out (Riedman, 1990) and, although there are no regular California sea lion haul-outs known within the Hood Canal (Jeffries *et al.,* 2000), they are frequently observed hauled out at several opportune areas at NBKB (e.g., submarines, floating security fence, barges). All documented instances of California sea lions hauling out at NBKB have been on submarines docked at Delta Pier, where a maximum of 122 California sea lions have been observed at any one time (DoN, 2013), and on pontoons of the NBKB floating security fence.

Killer Whale

Killer whales are one of the most cosmopolitan marine mammals, found in all oceans with no apparent restrictions on temperature or depth, although they do occur at higher densities in colder, more productive waters at high latitudes and are more common in nearshore waters (Leatherwood and Dahlheim, 1978; Forney and Wade, 2006). Killer whales are found throughout the North Pacific, including the entire Alaska coast, in British Columbia and Washington inland waterways, and along the outer coasts of Washington, Oregon, and California. On the basis of differences in morphology, ecology, genetics, and behavior, populations of killer whales have largely been classified as ''resident'', ''transient'', or ''offshore'' (e.g., Dahlheim *et al.,* 2008). Several studies have also provided evidence that these ecotypes are genetically distinct, and that further genetic differentiation is present between subpopulations of the resident and transient ecotypes (e.g., Barrett-Lennard, 2000). The taxonomy of killer whales is unresolved, with expert opinion generally following one of two lines: Killer whales are either (1) a single highly variable species, with locally differentiated ecotypes representing recently evolved and relatively ephemeral forms not deserving species status, or (2) multiple species, supported by the congruence of several lines of evidence for the distinctness of sympatrically occurring forms (Krahn *et al.,* 2004). Resident and transient whales are currently considered to be unnamed subspecies (Committee on Taxonomy, 2014).

The resident and transient populations have been divided further into different subpopulations on the basis of genetic analyses, distribution, and other factors. Recognized stocks in the North Pacific include Alaska residents; northern residents; southern residents; Gulf of Alaska, Aleutian Islands, and Bering Sea transients; and west coast transients, along with a single offshore stock. See Allen and Angliss (2013a) for more detail about these stocks. West coast transient killer whales, which occur from California through southeastern Alaska, are the only type expected to potentially occur in the project area.

It is thought that the stock grew rapidly from the mid-1970s to mid-1990s as a result of a combination of high birth rate, survival, as well as greater immigration of animals into the nearshore study area (DFO, 2009). The rapid growth of the population during this period coincided with a dramatic increase in the abundance of the whales' primary prey, harbor seals, in nearshore waters. Population growth began slowing in the mid-1990s and has continued to slow in recent years (DFO, 2009). Population trends and status of this stock relative to its OSP level are currently unknown. Analyses in DFO (2009) estimated a rate of increase of about six percent per year from 1975 to 2006, but this included recruitment of non-calf whales into the population.

Although certain commercial fisheries are known to have potential for interaction with killer whales and other mortality, resulting from shooting, ship strike, or entanglement, has been of concern in the past, the estimated level of human caused mortality and serious injury is currently considered to be zero for this stock (Allen and Angliss, 2013a). However, this could represent an underestimate as regards total fisheries-related mortality due to a lack of data concerning marine mammal interactions in Canadian commercial fisheries known to have potential for interaction with killer whales. Any such interactions are thought to be few in number (Allen and Angliss, 2013a). No ship strikes have been reported for this stock, and shooting of transients is

thought to be minimal because their diet is based on marine mammals rather than fish. There are no reports of a subsistence harvest of killer whales in Alaska or Canada.

Transient occurrence in inland waters appears to peak during August and September, which is the peak time for harbor seal pupping, weaning, and post-weaning (Baird and Dill, 1995). The number of transient killer whales in Washington waters at any one time is probably fewer than twenty individuals (Wiles, 2004). In 2003 and 2005, small groups of transient killer whales (eleven and six individuals, respectively) were present in Hood Canal for significant periods of time (59 and 172 days, respectively) between the months of January and July. While present, the whales preyed on harbor seals in the subtidal zone of the nearshore marine and inland marine deeper water habitats (London, 2006).

Harbor Porpoise

Harbor porpoises are found primarily in inshore and relatively shallow coastal waters (<100 m) from Point Barrow (Alaska) to Point Conception (California). Various genetic analyses and investigation of pollutant loads indicate a low mixing rate for harbor porpoises along the west coast of North America and likely fine-scale geographic structure along an almost continuous distribution from California to Alaska (e.g., Calambokidis and Barlow, 1991; Osmek *et al.,* 1994; Chivers *et al.,* 2002, 2007). However, stock boundaries are difficult to draw because any rigid line is generally arbitrary from a biological perspective. On the basis of genetic data and density discontinuities identified from aerial surveys, eight stocks have been identified in the eastern North Pacific, including northern Oregon/Washington coastal and inland Washington stocks (Carretta *et al.,* 2013a). The Washington inland waters stock includes individuals found east of Cape Flattery and is the only stock that may occur in the project area.

Although long-term harbor porpoise sightings in southern Puget Sound declined from the 1940s through the 1990s, sightings and strandings have increased in Puget Sound and northern Hood Canal in recent years and harbor porpoise are now considered to regularly occur year-round in these waters (Carretta *et al.,* 2013a). Reasons for the apparent decline, as well as the apparent rebound, are unknown. Recent observations may represent a return to historical conditions, when harbor porpoises were considered one of the most common cetaceans in Puget Sound (Scheffer and Slipp, 1948). The status of harbor porpoises in Washington inland waters relative to OSP is not known (Carretta *et al.,* 2013a).

Data from 2005–09 indicate that a minimum of 2.2 Washington inland waters harbor porpoises are killed annually in U.S. commercial fisheries (Carretta *et al.,* 2013a). Animals captured in waters east of Cape Flattery are assumed to belong to this stock. This estimate is considered a minimum because the Washington Puget Sound Region salmon set/drift gillnet fishery has not been observed since 1994, and because of a lack of knowledge about the extent to which harbor porpoise from U.S. waters frequent the waters of British Columbia and are, therefore, subject to fishery-related mortality. However, harbor porpoise takes in the salmon drift gillnet fishery are unlikely to have increased since the fishery was last observed, when few interactions were recorded, due to reductions in the number of participating vessels and available fishing time. Fishing effort and catch have declined throughout all salmon fisheries in the region due to management efforts to recover ESA-listed salmonids (Carretta *et al.,* 2013a). In addition, an estimated 0.4 animals per year are killed by non-fishery human causes (e.g., ship strike, entanglement). In 2006, a UME was declared for harbor porpoises throughout Oregon and Washington, and a total of 114 strandings were reported in 2006–07. The cause of the UME has not been determined and several factors, including contaminants, genetics, and environmental conditions, are still being investigated (Carretta *et al.,* 2013a).

Prior to recent construction projects conducted by the Navy at NBKB, harbor porpoises were considered to have only occasional occurrence in the project area. A single harbor porpoise had been sighted in deeper water at NBKB during 2010 field observations (Tannenbaum *et al.,* 2011). However, while implementing monitoring plans for work conducted from July–October, 2011, the Navy recorded multiple sightings of harbor porpoise in the deeper waters of the project area (HDR, 2012). Following these sightings, the Navy conducted dedicated line transect surveys, recording multiple additional sightings of harbor porpoises, and have revised local density estimates accordingly.

Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals. This discussion also includes reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of a take (for example, with acoustics, we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measurable avoidance). This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented, and how either of those will shape the anticipated impacts from this specific activity. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Proposed Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks. In the following discussion, we provide general background information on sound and marine mammal hearing before considering potential effects to marine mammals from sound produced by vibratory and impact pile driving.

Description of Sound Sources

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds and attenuate (decrease) more rapidly in shallower water. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the decibel (dB) scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs;

the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Rms is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (e.g., waves, earthquakes, ice, atmospheric sound), biological (e.g., sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (e.g., vessels, dredging, aircraft, construction). A number of sources contribute to ambient sound, including the following (Richardson *et al.,* 1995):

- Wind and waves: The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf noise becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions.
- Precipitation: Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times.
- Biological: Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.
- Anthropogenic: Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.,* 1995). Sound from identifiable anthropogenic sources other than the activity of interest (e.g., a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

Underwater ambient noise was measured at approximately 113 dB rms between 50 Hz and 20 kHz during the recent TPP project, approximately 1.85 mi from the project area (Illingworth & Rodkin, 2012). In 2009, the average broadband ambient underwater noise levels were measured at 114 dB between 100 Hz and 20 kHz (Slater, 2009). Peak spectral noise from industrial activity was noted below the 300 Hz frequency, with maximum levels of 110 dB noted in the 125 Hz band. In the 300 Hz to 5 kHz range, average levels ranged between 83 and 99 dB. Wind-driven wave noise dominated the background noise environment at approximately 5 kHz and above, and ambient noise levels flattened above 10 kHz. Known sound levels and frequency ranges associated with anthropogenic sources similar to those that would be used for this project are summarized in Table 3. Details of the source types are described in the following text.

TABLE 3—REPRESENTATIVE SOUND LEVELS OF ANTHROPOGENIC SOURCES

Sound source	Frequency range (Hz)	Underwater sound level	Reference
Small vessels	250–1,000	151 dB rms at 1 m	Richardson *et al.,* 1995.
Tug docking gravel barge	200–1,000	149 dB rms at 100 m	Blackwell and Greene, 2002.
Vibratory driving of 72-in steel pipe pile	10–1,500	180 dB rms at 10 m	Reyff, 2007.
Impact driving of 36-in steel pipe pile	10–1,500	195 dB rms at 10 m	Laughlin, 2007.
Impact driving of 66-in cast-in-steel-shell (CISS) pile.	10–1,500	195 dB rms at 10 m	Reviewed in Hastings and Popper, 2005.

In-water construction activities associated with the project would include impact pile driving and vibratory pile driving. The sounds produced by these activities fall into one of two general sound types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (e.g., Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.,* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (e.g., explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986; Harris, 1998; NIOSH, 1998; ISO, 2003; ANSI, 2005) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (e.g., rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper, 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.,* 2005).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals, and exposure to sound can have deleterious effects. To appropriately assess these potential effects, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (e.g., Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on measured or estimated hearing ranges on the basis of available behavioral data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. The lower and/or upper frequencies for some of these functional hearing groups have been modified from those designated by Southall *et al.* (2007). The functional groups and the associated frequencies are indicated below (note that these frequency ranges do not necessarily correspond to the range of best hearing, which varies by species):

- Low-frequency cetaceans (mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 30 kHz (extended from 22 kHz; Watkins, 1986; Au *et al.,* 2006; Lucifredi and Stein, 2007; Ketten and Mountain, 2009; Tubelli *et al.,* 2012);
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera *Kogia* and *Cephalorhynchus;* now considered to include two members of the genus *Lagenorhynchus* on the basis of recent echolocation data and genetic data [May-Collado and Agnarsson, 2006; Kyhn *et al.* 2009, 2010; Tougaard *et al.* 2010]): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and
- Pinnipeds in water: Functional hearing is estimated to occur between approximately 75 Hz to 100 kHz for Phocidae (true seals) and between 100 Hz and 40 kHz for Otariidae (eared seals), with the greatest sensitivity between approximately 700 Hz and 20 kHz. The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth *et al.,* 2013).

There are five marine mammal species (two cetacean and three pinniped [two otariid and one phocid] species) with expected potential to co-occur with Navy construction activities. Please refer to Table 2. Of the two cetacean species that may be present, the killer whale is classified as a mid-frequency cetacean and the harbor porpoise is classified as a high-frequency cetacean.

Acoustic Effects, Underwater

Potential Effects of Pile Driving Sound—The effects of sounds from pile driving might result in one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). The effects of pile driving on marine mammals are dependent on several factors, including the size, type, and depth of the animal; the depth, intensity, and duration of the pile driving sound; the depth of the water column; the substrate of the habitat; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the received level and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. Shallow environments are typically more structurally complex, which leads to rapid sound attenuation. In addition, substrates that are soft (e.g., sand) would absorb or attenuate the sound more readily than hard substrates (e.g., rock) which may reflect the acoustic wave. Soft porous substrates would also likely require less time to drive the pile, and possibly less forceful equipment, which would ultimately decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species would be expected to result from physiological and behavioral responses to both the type and strength

of the acoustic signature (Viada *et al.,* 2008). The type and severity of behavioral impacts are more difficult to define due to limited studies addressing the behavioral effects of impulsive sounds on marine mammals. Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973).

Hearing Impairment and Other Physical Effects—Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.,* 1999; Schlundt *et al.,* 2000; Finneran *et al.,* 2002, 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Marine mammals depend on acoustic cues for vital biological functions, (e.g., orientation, communication, finding prey, avoiding predators); thus, TTS may result in reduced fitness in survival and reproduction. However, this depends on the frequency and duration of TTS, as well as the biological context in which it occurs. TTS of limited duration, occurring in a frequency range that does not coincide with that used for recognition of important acoustic cues, would have little to no effect on an animal's fitness. Repeated sound exposure that leads to TTS could cause PTS. PTS constitutes injury, but TTS does not (Southall *et al.,* 2007). The following subsections discuss in somewhat more detail the possibilities of TTS, PTS, and non-auditory physical effects.

Temporary Threshold Shift—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be stronger in order to be heard. In terrestrial mammals, TTS can last from minutes or hours to days (in cases of strong TTS). For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007).

Given the available data, the received level of a single pulse (with no frequency weighting) might need to be approximately 186 dB re 1 μPa^2-s (i.e., 186 dB sound exposure level [SEL] or approximately 221–226 dB p-p [peak]) in order to produce brief, mild TTS. Exposure to several strong pulses that each have received levels near 190 dB rms (175–180 dB SEL) might result in cumulative exposure of approximately 186 dB SEL and thus slight TTS in a small odontocete, assuming the TTS threshold is (to a first approximation) a function of the total received pulse energy.

The above TTS information for odontocetes is derived from studies on the bottlenose dolphin (*Tursiops truncatus*) and beluga whale (*Delphinapterus leucas*). There is no published TTS information for other species of cetaceans. However, preliminary evidence from a harbor porpoise exposed to pulsed sound suggests that its TTS threshold may have been lower (Lucke *et al.,* 2009). As summarized above, data that are now available imply that TTS is unlikely to occur unless odontocetes are exposed to pile driving pulses stronger than 180 dB re 1 μPa rms.

Permanent Threshold Shift—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, while in other cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of sound can cause PTS in any marine mammal. However, given the possibility that mammals close to a sound source might incur TTS, there has been further speculation about the possibility that some individuals might incur PTS. Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals but are assumed to be similar to those in humans and other terrestrial mammals. PTS might occur at a received sound level at least several decibels above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise time. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as pile driving pulses as received close to the source) is at least 6 dB higher than the TTS threshold on a peak-pressure basis and probably greater than 6 dB (Southall *et al.,* 2007). On an SEL basis, Southall *et al.* (2007) estimated that received levels would need to exceed the TTS threshold by at least 15 dB for there to be risk of PTS. Thus, for cetaceans, Southall *et al.* (2007) estimate that the PTS threshold might be an M-weighted SEL (for the sequence of received pulses) of approximately 198 dB re 1 μPa^2-s (15 dB higher than the TTS threshold for an impulse). Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

Measured source levels from impact pile driving can be as high as 214 dB rms. Although no marine mammals have been shown to experience TTS or PTS as a result of being exposed to pile driving activities, captive bottlenose dolphins and beluga whales exhibited changes in behavior when exposed to strong pulsed sounds (Finneran *et al.,* 2000, 2002, 2005). The animals tolerated high received levels of sound before exhibiting aversive behaviors. Experiments on a beluga whale showed that exposure to a single watergun impulse at a received level of 207 kPa (30 psi) p-p, which is equivalent to 228 dB p-p, resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within four minutes of the exposure (Finneran *et al.,* 2002). Although the source level of pile driving from one hammer strike is expected to be much lower than the single watergun impulse cited here, animals being exposed for a prolonged period to repeated hammer strikes could receive more sound exposure in terms of SEL than from the single watergun impulse (estimated at 188 dB re 1 μPa^2-s) in the aforementioned experiment (Finneran *et al.,* 2002). However, in order for marine mammals to experience TTS or PTS, the animals have to be close enough to be exposed to high intensity sound levels for a prolonged period of time. Based on the best scientific information available, these SPLs are far below the thresholds that could cause TTS or the onset of PTS.

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. In general, little is known about the potential for pile

driving to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur auditory impairment or non-auditory physical effects.

Disturbance Reactions

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Behavioral responses to sound are highly variable and context-specific and reactions, if any, depend on species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007).

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. Behavioral state may affect the type of response as well. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003).

Controlled experiments with captive marine mammals showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic guns or acoustic harassment devices, but also including pile driving) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; Thorson and Reyff, 2006; see also Gordon *et al.,* 2004; Wartzok *et al.,* 2003; Nowacek *et al.,* 2007). Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds.

With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.,* 1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (e.g., pinnipeds flushing into water from haul-outs or rookeries). Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Habitat abandonment due to loss of desirable acoustic environment; and
- Cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Auditory Masking

Natural and artificial sounds can disrupt behavior by masking, or interfering with, a marine mammal's ability to hear other sounds. Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher levels. Chronic exposure to excessive, though not high-intensity, sound could cause masking at particular frequencies for marine mammals that utilize sound for vital biological functions. Masking can interfere with detection of acoustic signals such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction. If the coincident (masking) sound were man-made, it could be potentially harassing if it disrupted hearing-related behavior. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water pile driving is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. However, lower frequency man-made sounds are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey sound. It may also affect communication signals when they occur near the sound band and thus reduce the communication space of animals (e.g., Clark *et al.,* 2009) and cause increased stress levels (e.g., Foote *et al.,* 2004; Holt *et al.,* 2009).

Masking has the potential to impact species at the population or community levels as well as at individual levels. Masking affects both senders and receivers of the signals and can potentially have long-term chronic effects on marine mammal species and populations. Recent research suggests that low frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, and that most of these increases are from distant shipping (Hildebrand, 2009). All anthropogenic sound sources, such as those from vessel traffic, pile driving, and dredging activities, contribute to the elevated ambient sound levels, thus intensifying masking.

The most intense underwater sounds in the proposed action are those produced by impact pile driving. Given that the energy distribution of pile driving covers a broad frequency

spectrum, sound from these sources would likely be within the audible range of marine mammals present in the project area. Impact pile driving activity is relatively short-term, with rapid pulses occurring for approximately fifteen minutes per pile. The probability for impact pile driving resulting from this proposed action masking acoustic signals important to the behavior and survival of marine mammal species is likely to be negligible. Vibratory pile driving is also relatively short-term, with rapid oscillations occurring for approximately one and a half hours per pile. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area would result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for vibratory and impact pile driving, and which have already been taken into account in the exposure analysis.

Acoustic Effects, Airborne

Marine mammals that occur in the project area could be exposed to airborne sounds associated with pile driving that have the potential to cause harassment, depending on their distance from pile driving activities. Airborne pile driving sound would have less impact on cetaceans than pinnipeds because sound from atmospheric sources does not transmit well underwater (Richardson *et al.,* 1995); thus, airborne sound would only be an issue for pinnipeds either hauled-out or looking with heads above water in the project area. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled-out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon their habitat and move further from the source. Studies by Blackwell *et al.* (2004) and Moulton *et al.* (2005) indicate a tolerance or lack of response to unweighted airborne sounds as high as 112 dB peak and 96 dB rms.

Anticipated Effects on Habitat

The proposed activities at NBKB would not result in permanent impacts to habitats used directly by marine mammals, such as haul-out sites, but may have potential short-term impacts to food sources such as forage fish and salmonids. There are no rookeries or major haul-out sites within 16 km or ocean bottom structure of significant biological importance to marine mammals that may be present in the marine waters in the vicinity of the project area. Therefore, the main impact associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The most likely impact to marine mammal habitat occurs from pile driving effects on likely marine mammal prey (i.e., fish) near NBKB and minor impacts to the immediate substrate during installation and removal of piles during the wharf construction project.

Pile Driving Effects on Potential Prey

Construction activities would produce both pulsed (i.e., impact pile driving) and continuous (i.e., vibratory pile driving) sounds. Fish react to sounds which are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (e.g., Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Sound pulses at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.,* 1992; Skalski *et al.,* 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality. The most likely impact to fish from pile driving activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the short timeframe for the wharf construction project. However, adverse impacts may occur to a few species of rockfish and salmon which may still be present in the project area despite operating in a reduced work window in an attempt to avoid important fish spawning time periods. Impacts to these species could result from potential impacts to their eggs and larvae.

Pile Driving Effects on Potential Foraging Habitat

The area likely impacted by the project is relatively small compared to the available habitat in the Hood Canal. Avoidance by potential prey (i.e., fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the Hood Canal and nearby vicinity.

In summary, given the short daily duration of sound associated with individual pile driving events and the relatively small areas being affected, pile driving activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

Measurements from similar pile driving events were coupled with practical spreading loss to estimate zones of influence (ZOI; see ''Estimated Take by Incidental Harassment''). These values were then refined based on in situ measurements performed during the TPP, for similar pile driving activity and within the EHW–2 project footprint, to develop mitigation measures for EHW–2 pile driving activities. The ZOIs effectively represent the mitigation zone that would be established around each pile to prevent Level A harassment to marine mammals, while providing estimates of the areas within which Level B harassment might occur. While the ZOIs vary between the different diameter piles and types of installation methods, the Navy is proposing to establish mitigation zones for the maximum ZOI for all pile driving conducted in support of the wharf

construction project. In addition to the measures described later in this section, the Navy would employ the following standard mitigation measures:

(a) Conduct briefings between construction supervisors and crews, marine mammal monitoring team, and Navy staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

(b) For in-water heavy machinery work other than pile driving (using, e.g., standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) Movement of the barge to the pile location; (2) positioning of the pile on the substrate via a crane (i.e., stabbing the pile); (3) removal of the pile from the water column/substrate via a crane (i.e., deadpull); or (4) the placement of sound attenuation devices around the piles. For these activities, monitoring would take place from 15 minutes prior to initiation until the action is complete.

Monitoring and Shutdown for Pile Driving

The following measures would apply to the Navy's mitigation through shutdown and disturbance zones:

Shutdown Zone—For all pile driving activities, the Navy will establish a shutdown zone intended to contain the area in which SPLs equal or exceed the 180/190 dB rms acoustic injury criteria. The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury of marine mammals. Modeled distances for shutdown zones are shown in Table 8. However, during impact pile driving, the Navy would implement a minimum shutdown zone of 85 m radius for cetaceans and 20 m radius for pinnipeds around all pile driving activity. The modeled injury threshold distances are approximately 22 m and 5 m, respectively, but the distances are increased based on in-situ recorded sound pressure levels during the TPP. During vibratory driving, the shutdown zone would be 10 m distance from the source for all animals. These precautionary measures are intended to further reduce any possibility of acoustic injury, as well as to account for any undue reduction in the modeled zones stemming from the assumption of 10 dB attenuation from use of a bubble curtain (see discussion later in this section).

Disturbance Zone—Disturbance zones are the areas in which SPLs equal or exceed 160 and 120 dB rms (for pulsed and non-pulsed continuous sound, respectively). Disturbance zones provide utility for monitoring conducted for mitigation purposes (i.e., shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting incidents of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see ''Proposed Monitoring and Reporting''). Nominal radial distances for disturbance zones are shown in Table 8. Given the size of the disturbance zone for vibratory pile driving, it is impossible to guarantee that all animals would be observed or to make comprehensive observations of fine-scale behavioral reactions to sound, and only a portion of the zone (e.g., what may be reasonably observed by visual observers stationed within the water front restricted area [WRA]) will be monitored.

In order to document observed incidents of harassment, monitors record all marine mammal observations, regardless of location. The observer's location, as well as the location of the pile being driven, is known from a GPS. The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile. The received level may be estimated on the basis of past or subsequent acoustic monitoring. It may then be determined whether the animal was exposed to sound levels constituting incidental harassment in post-processing of observational data, and a precise accounting of observed incidents of harassment created. Therefore, although the predicted distances to behavioral harassment thresholds are useful for estimating harassment for purposes of authorizing levels of incidental take, actual take may be determined in part through the use of empirical data. That information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes.

Monitoring Protocols—Monitoring would be conducted before, during, and after pile driving activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown; that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from fifteen minutes prior to initiation through thirty minutes post-completion of pile driving activities. Pile driving activities include the time to remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes. Please see the Marine Mammal Monitoring Plan (available at *www.nmfs.noaa.gov/pr/permits/incidental.htm*), developed by the Navy with our approval, for full details of the monitoring protocols.

The following additional measures apply to visual monitoring:

(1) Monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Qualified observers are trained biologists, with the following minimum qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- Advanced education in biological science or related field (undergraduate degree or higher required);
- Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and

times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

• Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

(2) Prior to the start of pile driving activity, the shutdown zone will be monitored for fifteen minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals; animals will be allowed to remain in the shutdown zone (i.e., must leave of their own volition) and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (i.e., when not obscured by dark, rain, fog, etc.). In addition, if such conditions should arise during impact pile driving that is already underway, the activity would be halted.

(3) If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal. Monitoring will be conducted throughout the time required to drive a pile.

Sound Attenuation Devices

Sound levels can be greatly reduced during impact pile driving using sound attenuation devices. There are several types of sound attenuation devices including bubble curtains, cofferdams, and isolation casings (also called temporary noise attenuation piles [TNAP]), and cushion blocks. The Navy proposes to use bubble curtains, which create a column of air bubbles rising around a pile from the substrate to the water surface. The air bubbles absorb and scatter sound waves emanating from the pile, thereby reducing the sound energy. Bubble curtains may be confined or unconfined. An unconfined bubble curtain may consist of a ring seated on the substrate and emitting air bubbles from the bottom. An unconfined bubble curtain may also consist of a stacked system, that is, a series of multiple rings placed at the bottom and at various elevations around the pile. Stacked systems may be more effective than non-stacked systems in areas with high current and deep water (Oestman *et al.,* 2009).

A confined bubble curtain contains the air bubbles within a flexible or rigid sleeve made from plastic, cloth, or pipe. Confined bubble curtains generally offer higher attenuation levels than unconfined curtains because they may physically block sound waves and they prevent air bubbles from migrating away from the pile. For this reason, the confined bubble curtain is commonly used in areas with high current velocity (Oestman *et al.,* 2009).

Both environmental conditions and the characteristics of the sound attenuation device may influence the effectiveness of the device. According to Oestman *et al.* (2009):

• In general, confined bubble curtains attain better sound attenuation levels in areas of high current than unconfined bubble curtains. If an unconfined device is used, high current velocity may sweep bubbles away from the pile, resulting in reduced levels of sound attenuation.

• Softer substrates may allow for a better seal for the device, preventing leakage of air bubbles and escape of sound waves. This increases the effectiveness of the device. Softer substrates also provide additional attenuation of sound traveling through the substrate.

• Flat bottom topography provides a better seal, enhancing effectiveness of the sound attenuation device, whereas sloped or undulating terrain reduces or eliminates its effectiveness.

• Air bubbles must be close to the pile; otherwise, sound may propagate into the water, reducing the effectiveness of the device.

• Harder substrates may transmit ground-borne sound and propagate it into the water column.

The literature presents a wide array of observed attenuation results for bubble curtains (e.g., Oestman *et al.,* 2009; Coleman, 2011; see Table 6–5 of the Navy's application). The variability in attenuation levels is due to variation in design, as well as differences in site conditions and difficulty in properly installing and operating in-water attenuation devices. As a general rule, reductions of greater than 10 dB cannot be reliably predicted. The TPP reported a range of measured values for realized attenuation mostly within 6 to 12 dB (Illingworth & Rodkin, 2012). For 36-in piles the average peak and rms reduction with use of the bubble curtain was 8 dB, where the averages of all bubble-on and bubble-off data were compared. For 48-in piles, the average SPL reduction with use of a bubble curtain was 6 dB for average peak values and 5 dB for rms values. See Tables 6–6 and 6–7 of the Navy's application.

To avoid loss of attenuation from design and implementation errors, the Navy has required specific bubble curtain design specifications, including testing requirements for air pressure and flow prior to initial impact hammer use, and a requirement for placement on the substrate. We considered TPP measurements (approximately 7 dB overall) and other monitored projects (typically at least 8 dB realized attenuation), and consider 8 dB as potentially the best estimate of average SPL (rms) reduction, assuming appropriate deployment and no problems with the equipment. In looking at other monitored projects prior to completion of the TPP, the Navy determined with our concurrence that an assumption of 10 dB realized attenuation was realistic. Therefore, a 10 dB reduction was used in the Navy's analysis of pile driving noise in the initial environmental analyses for the EHW–2 project. The Navy's analysis is retained here. While acknowledging that empirical evidence from the TPP indicates that the 10 dB target has not been consistently achieved, we did not require the Navy to revisit their acoustic modeling because (1) shutdown and disturbance zones for the second and third construction years are based on in situ measurements rather than the original modeling that assumed 10 dB attenuation from a bubble curtain and (2) take estimates are not affected because they are based on a combined modeled sound field (i.e., concurrent operation of impact and vibratory drivers) rather than there being separate take estimates for impact and vibratory pile driving.

Bubble curtains shall be used during all impact pile driving. The device will distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column, and the lowest bubble ring shall be in contact with the mudline for the full circumference of the ring. Testing of the device by comparing attenuated and unattenuated strikes is not possible because of requirements in place to protect marbled murrelets (an ESA-listed bird species under the jurisdiction of the USFWS). However, in order to avoid loss of attenuation from design and implementation errors in the absence of such testing, a performance test of the device shall be conducted prior to initial use. The performance test shall confirm the calculated pressures and flow rates at each manifold ring. In addition, the contractor shall also train personnel in the proper balancing of air flow to the bubblers and shall submit an

inspection/performance report to the Navy within 72 hours following the performance test.

Timing Restrictions

In Hood Canal, designated timing restrictions exist for pile driving activities to avoid in-water work when salmonids and other spawning forage fish are likely to be present. The in-water work window is July 16–February 15. Until September 23, impact pile driving will only occur starting two hours after sunrise and ending two hours before sunset due to marbled murrelet nesting season. After September 23, in-water construction activities will occur during daylight hours (sunrise to sunset).

Soft Start

The use of a soft-start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from vibratory hammers for fifteen seconds at reduced energy followed by a thirty-second waiting period. This procedure is repeated two additional times.

However, implementation of soft start for vibratory pile driving during previous pile driving work for the EHW–2 project at NBKB has led to equipment failure and serious human safety concerns. Project staff have reported that, during power down from the soft start, the energy from the hammer is transferred to the crane boom and block via the load fall cables and rigging resulting in unexpected damage to both the crane block and crane boom. This differs from what occurs when the hammer is powered down after a pile is driven to refusal in that the rigging and load fall cables are able to be slacked prior to powering down the hammer, and the vibrations are transferred into the substrate via the pile rather than into the equipment via the rigging. One dangerous incident of equipment failure has already occurred, with a portion of the equipment shearing from the crane and falling to the deck. Subsequently, the crane manufacturer has inspected the crane booms and discovered structural fatigue in the boom lacing and main structural components, which will ultimately result in a collapse of the crane boom. All cranes were new at the beginning of the job. In addition, the vibratory hammer manufacturer has attempted to install dampers to mitigate the problem, without success.

It is the Navy's contention that this situation is unique to the EHW–2 project, in comparison with other common marine construction projects requiring pile driving. The design specifications of the wharf, which require relatively large-diameter piles to be driven to embedment in relatively deep water through stiff glacial soil, mean that relatively greater driving energy, and therefore a larger hammer, is required for successful embedment. The Marine Mammal Commission previously recommended that we require the Navy to consult with the Washington State Department of Transportation and/or the California Department of Transportation to determine whether soft start procedures can be used safely with the vibratory hammers that the Navy plans to use. We agreed with that recommendation and are still working to facilitate such a consultation in order to determine whether the potentially significant human safety issue is inherent to implementation of the measure or is due to operator error. However, our interest in examining this issue is related to our need to understand the conditions under which vibratory soft start may be advisable from an engineering perspective for future projects.

For this proposed IHA and for the remainder of the EHW–2 project, as a result of this potential risk to human safety, we have determined vibratory soft start to not currently be practicable. Therefore, the measure will not be required. We have further determined this measure unnecessary to providing the means of effecting the least practicable impact on marine mammals and their habitat.

For impact driving, soft start will be required, and contractors will provide an initial set of strikes from the impact hammer at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. The reduced energy of an individual hammer cannot be quantified because of variation in individual drivers. The actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in ''bouncing'' of the hammer as it strikes the pile, resulting in multiple ''strikes.'' Soft start for impact driving will be required at the beginning of each day's pile driving work and at any time following a cessation of impact pile driving of thirty minutes or longer.

We have carefully evaluated the Navy's proposed mitigation measures and considered their effectiveness in past implementation to preliminarily determine whether they are likely to effect the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals, (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(3) A reduction in the number (total number or number at biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(4) A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing the severity of behavioral harassment only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the Navy's proposed measures, including information from monitoring of the Navy's implementation of the mitigation measures as prescribed under previous IHAs for this and other projects in the Hood Canal, we have preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their

habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Any monitoring requirement we prescribe should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within defined zones of effect (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

2. An increase in our understanding of how many marine mammals are likely to be exposed to stimuli that we associate with specific adverse effects, such as behavioral harassment or hearing threshold shifts;

3. An increase in our understanding of how marine mammals respond to stimuli expected to result in incidental take and how anticipated adverse effects on individuals may impact the population, stock, or species (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict pertinent information, e.g., received level, distance from source);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict pertinent information, e.g., received level, distance from source);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

4. An increased knowledge of the affected species; or

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

The Navy submitted a marine mammal monitoring plan as part of the IHA application for year two of this project. It will be applied to year three of this project and can be found on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental.htm.* The plan has been successfully implemented by the Navy under the previous IHA and may be modified or supplemented based on comments or new information received from the public during the public comment period.

Visual Marine Mammal Observations

The Navy will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All observers will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. The Navy will monitor the shutdown zone and disturbance zone before, during, and after pile driving, with observers located at the best practicable vantage points. Based on our requirements, the Marine Mammal Monitoring Plan would implement the following procedures for pile driving:

- MMOs would be located at the best vantage point(s) in order to properly see the entire shutdown zone and as much of the disturbance zone as possible.
- During all observation periods, observers will use binoculars and the naked eye to search continuously for marine mammals.
- If the shutdown zones are obscured by fog or poor lighting conditions, pile driving at that location will not be initiated until that zone is visible. Should such conditions arise while impact driving is underway, the activity would be halted.
- The shutdown and disturbance zones around the pile will be monitored for the presence of marine mammals before, during, and after any pile driving or removal activity.

Individuals implementing the monitoring protocol will assess its effectiveness using an adaptive approach. Monitoring biologists will use their best professional judgment throughout implementation and seek improvements to these methods when deemed appropriate. Any modifications to protocol will be coordinated between NMFS and the Navy.

Data Collection

We require that observers use approved data forms. Among other pieces of information, the Navy will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, the Navy will attempt to distinguish between the number of individual animals taken and the number of incidents of take. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (e.g., percent cover, visibility);
- Water conditions (e.g., sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Locations of all marine mammal observations; and
- Other human activity in the area.

Reporting

A draft report would be submitted within ninety calendar days of the completion of the in-water work window. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days, and will also provide descriptions of any problems encountered in deploying sound attenuating devices, any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within thirty days following resolution of comments on the draft report.

Monitoring Results From Previously Authorized Activities

The Navy complied with the mitigation and monitoring required under the previous authorizations for this project. Marine mammal monitoring occurred before, during, and after each pile driving event. During the course of these activities, the Navy did not exceed the take levels authorized under the IHAs.

In accordance with the 2012 IHA, the Navy submitted a Year 1 Marine Mammal Monitoring Report (2012–2013), covering the period of July 16

through February 15. Due to delays in beginning the project the first day of monitored pile driving activity occurred on September 28, 2012, and a total of 78 days of pile driving occurred between then and February 14, 2013. That total included 56 days of vibratory driving only, three days of only impact driving, and 19 days where both vibratory and impact driving occurred, with a maximum concurrent deployment of two vibratory drivers and one impact driver.

Monitoring was conducted in two areas: (1) Primary visual surveys within the disturbance and shutdown zones in the WRA (approximately 500-m radius), (2) boat surveys outside the WRA but within the disturbance zone. The latter occurred only during acoustic monitoring accomplished at the outset of the work period, which required a small vessel be deployed outside the WRA. Marine mammal observers were placed on construction barges, the construction pier, and vessels located in near-field (within the WRA) and far-field (outside the WRA) locations, in accordance with the Marine Mammal Monitoring Plan.

Monitoring for the second year of construction was conducted throughout the 2013–14 work window (i.e., mid-July to mid-February). The monitoring was conducted in the same manner as the first year, but was limited to within the WRA as no acoustic monitoring was conducted during the second year. At the time of this writing, the Navy has provided a draft of the Year 2 Marine Mammal Report and it is under review. We have made the draft report available for public review and comment prior to any final decision regarding this proposed authorization.

Table 3 summarizes monitoring results from years one and two of the EHW–2 project, including observations from all monitoring effort (including while pile driving was not actively occurring) and records of unique observations during active pile driving (seen in the far right column). Primary surveys refer to observations by stationary and vessel-based monitors within the WRA. Boat surveys refer to vessel-based surveys conducted outside the WRA (Year 1 only). No Steller sea lions have been observed within defined ZOIs during active pile driving, and no killer whales have been observed during any project monitoring at NBKB. For more detail, including full monitoring results and analysis, please see the monitoring reports at *www.nmfs.noaa.gov/pr/permits/incidental.htm.*

TABLE 3—SUMMARY MARINE MAMMAL MONITORING RESULTS, EHW–2 YEARS 1–2

Activity [1]	Species	Total number groups observed	Total number individuals observed	Maximum group size	Total individuals observed (active pile driving and within disturbance zone only)
Primary surveys, Y1	California sea lion	30	30	1	4
	Harbor seal	939	984	4	214
Boat surveys, Y1	California sea lion	21	126	20	22
	Steller sea lion	3	3	1	0
	Harbor seal	73	76	2	22
	Harbor porpoise	10	57	10	36
Primary surveys, Y2	California sea lion	77	83	3	10
	Harbor seal	3,046	3,229	5	713

[1] Total observation effort during active pile driving: Year 1—530 hours, 50 minutes on eighty construction days; Year 2—1,247 hours, 27 minutes on 162 construction days.

Acoustic Monitoring—During the first year of construction for EHW–2, the Navy conducted acoustic monitoring as required under the IHA. During year one, 24- to 36-in diameter piles were primarily driven, by vibratory and impact driving. Only one 48-in pile was driven, so no data are provided for that pile size. All piles were steel pipe piles. Primary objectives for the acoustic monitoring were to characterize underwater and airborne source levels for each pile size and hammer type and to verify distances to relevant threshold levels by characterizing site-specific transmission loss. Measurements of impact driving for 24-in piles showed a high degree of variation (SD = 24.1) because many of these piles were driven either on land or in extremely shallow water, while others were driven in deeper water more characteristic of typical driving conditions for EHW–2. Select results are reproduced here (Tables 4–5); the interested reader may find the entire report posted at *www.nmfs.noaa.gov/pr/permits/incidental.htm.* Acoustic monitoring was also conducted during the TPP and during year one of the EHW–1 project. Those reports may be found at the same address. Acoustic measurements from NBKB are discussed further below in ''Estimated Take by Incidental Harassment.''

TABLE 4—ACOUSTIC MONITORING RESULTS FROM 2012–13 ACTIVITIES AT EHW–2 (YEAR 1)

Pile size (in)	Hammer type [1]	n [2]	Underwater			Airborne	
			RL [3]	SD [4]	TL [5]	RL [6]	SD
24	Impact	41	179	24.1	18.6	103	1.0
36	Impact	26	188	5.0	14.9	102	2.2
24	Vibratory	71	163	8.3	15.3	95	3.7
36	Vibratory	113	169	4.3	16.8	103	3.2

[1] All data for impact driving include use of bubble curtain; [2] n = sample size, or number of measured pile driving events; [3] Received level at 10 m, presented in dB rms; [4] Standard deviation; [5] Transmission loss (log_{10}); [6] Received level at 15 m, presented in dB rms (Z-weighted L_{eq}).

For vibratory driving, measured source levels were below the 180-dB threshold. Calculation of average distances to the 120-dB threshold was complicated by variability in propagation of sound at greater distances, variability in measured sounds from event to event, and the difficulty of making measurements, given noise from wind and wave action, in the far field (Table 5). Also, as observed during previous monitoring events at NBKB, measured levels in shallower water at the far side of Hood Canal are sometimes louder than measurements made closer to the source in the deeper open channel. These events are unexplained. Estimated radial distances to the 120-dB threshold were highly variable, but typically less than the maximum distance as constrained by land (i.e., 13,800 m; Table 9). The topography of Hood Canal realistically constrains distances to 7,000 m to the south of the project area.

TABLE 5—MEASURED VALUES FROM TPP AND EHW–2 ACOUSTIC MONITORING, INCLUDING DISTANCES TO RELEVANT THRESHOLDS

Project	Type	Source level (dB rms)	Transmission loss	Measured distances to relevant thresholds (rms)			
				120-dB [1]	160-dB	180-dB	190-dB
TPP	Impact; 36-in	181 (avg)/183 (max)	16.4	n/a	425 m	35 m	<10 m.
TPP	Impact; 48-in	187 (avg)/188 (max)	13.4	n/a	1,300 m	60 m	15 m.
TPP	Vibratory; 36- to 48-in			1,200–8,000+ m	n/a	n/a	n/a.
EHW–2 (Y1).	Impact; 36-in	188 dB (avg)/191 dB (max).	14.9	n/a	670 m	45 m	12 m.
EHW–2 (Y1).	Vibratory; 36-in			4,400 m (avg)/10,250 m (max).	n/a	n/a	n/a.

[1] Distances to 120-dB threshold are estimated from measured source level and transmission loss values. The distances themselves are not measured.

Sound levels during soft starts were typically lower than those levels at the initiation and completion of continuous vibratory driving. However, levels during continuous driving varied considerably and were at times lower than those produced during the soft starts. It is difficult to assign a level that describes how much lower the soft start sound levels were than continuous levels. Similarly inconclusive results were seen from monitoring associated with the TPP.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild; or has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering. The former is termed Level A harassment and the latter is termed Level B harassment.

All anticipated takes would be by Level B harassment resulting from vibratory and impact pile driving and involving temporary changes in behavior. The proposed mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by Level A harassment, serious injury, or mortality is considered discountable. However, it is unlikely that injurious or lethal takes would occur even in the absence of the planned mitigation and monitoring measures.

If a marine mammal responds to a stimulus by changing its behavior (e.g., through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound.

This practice potentially overestimates the numbers of marine mammals taken. For example, during the past fifteen years, killer whales have been observed within the project area twice. On the basis of that information, an estimated amount of potential takes for killer whales is presented here. However, while a pod of killer whales could potentially visit again during the project timeframe, and thus be taken, it is more likely that they will not. Although incidental take of killer whales and Dall's porpoises was authorized for 2011–12 and 2012–13 activities at NBKB on the basis of past observations of these species, no such takes were recorded and no individuals of these species were observed. Similarly, estimated actual take levels (observed takes extrapolated to the remainder of unobserved but ensonified area) were significantly less than authorized levels of take for the remaining species. In addition, it is often difficult to distinguish between the individuals harassed and incidences of harassment. In particular, for stationary activities, it is more likely that some smaller number of individuals may accrue a number of incidences of harassment per individual than for each incidence to accrue to a new individual, especially if those individuals display some degree of residency or site fidelity and the impetus to use the site (e.g., because of foraging opportunities) is stronger than the deterrence presented by the harassing activity.

The project area is not believed to be particularly important habitat for marine mammals, nor is it considered an area frequented by marine mammals, although harbor seals are year-round residents of Hood Canal and sea lions are known to haul-out on submarines and other man-made objects at the NBKB waterfront (although typically at a distance of a mile or greater from the project site). Therefore, behavioral disturbances that could result from anthropogenic sound associated with these activities are expected to affect only a relatively small number of individual marine mammals, although those effects could be recurring over the

life of the project if the same individuals remain in the project vicinity.

The Navy has requested authorization for the incidental taking of small numbers of Steller sea lions, California sea lions, harbor seals, transient killer whales, and harbor porpoises in the Hood Canal that may result from pile driving during construction activities associated with the wharf construction project described previously in this document. In order to estimate the potential incidents of take that may occur incidental to the specified activity, we must first estimate the extent of the sound field that may be produced by the activity and then consider in combination with information about marine mammal density or abundance in the project area. We first provide information on applicable sound thresholds for determining effects to marine mammals before describing the information used in estimating the sound fields, the available marine mammal density or abundance information, and the method of estimating potential incidences of take.

Sound Thresholds

We use generic sound exposure thresholds to determine when an activity that produces sound might result in impacts to a marine mammal such that a take by harassment might occur. To date, no studies have been conducted that explicitly examine impacts to marine mammals from pile driving sounds or from which empirical sound thresholds have been established. These thresholds should be considered guidelines for estimating when harassment may occur (i.e., when an animal is exposed to levels equal to or exceeding the relevant criterion) in specific contexts; however, useful contextual information that may inform our assessment of effects is typically lacking and we consider these thresholds as step functions. NMFS is currently revising these acoustic guidelines; for more information on that process, please visit *www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.* Vibratory pile driving produces continuous noise and impact pile driving produces impulsive noise.

TABLE 6—CURRENT ACOUSTIC EXPOSURE CRITERIA

Criterion	Definition	Threshold
Level A harassment (underwater)	Injury (PTS—any level above that which is known to cause TTS).	180 dB (cetaceans)/190 dB (pinnipeds) (rms).
Level B harassment (underwater)	Behavioral disruption	160 dB (impulsive source)/120 dB (continuous source) (rms).
Level B harassment (airborne)*	Behavioral disruption	90 dB (harbor seals)/100 dB (other pinnipeds) (unweighted).

* NMFS has not established any formal criteria for harassment resulting from exposure to airborne sound. However, these thresholds represent the best available information regarding the effects of pinniped exposure to such sound and NMFS' practice is to associate exposure at these levels with Level B harassment.

Distance to Sound Thresholds

Underwater Sound Propagation Formula—Pile driving generates underwater noise that can potentially result in disturbance to marine mammals in the project area. Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \log_{10}(R_1/R_2),$$

where

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of fifteen is often used under conditions, such as Hood Canal, where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss (4.5 dB reduction in sound level for each doubling of distance) is assumed here.

Underwater Sound—The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. A large quantity of literature regarding SPLs recorded from pile driving projects is available for consideration. In order to determine reasonable SPLs and their associated effects on marine mammals that are likely to result from pile driving at NBKB, studies with similar properties to the specified activity were evaluated, including measurements conducted for driving of steel piles at NBKB as part of the TPP (Illingworth & Rodkin, 2012). During the TPP, SPLs from driving of 24-, 36-, and 48-in piles by impact and vibratory hammers were measured. Overall, studies which met the following parameters were considered: (1) Pile size and materials: Steel pipe piles (30- to 72-in diameter); (2) Hammer machinery: Vibratory and impact hammer; and (3) Physical environment: shallow depth (less than 30 m).

TABLE 7—UNDERWATER SPLS FROM MONITORED CONSTRUCTION ACTIVITIES USING IMPACT HAMMERS

Project and location	Pile size and type	Water depth (m)	Measured SPLs
Eagle Harbor Maintenance Facility, WA [1]	30-in steel pipe	10	192 dB (rms) at 10 m.
Friday Harbor Ferry Terminal, WA [2]	30-in steel pipe	10	196 dB (rms) at 10 m.
Humboldt Bay Bridges, CA [3]	36-in CISS pipe	10	193 dB (rms) at 10 m.
Mukilteo Test Piles, WA [4]	36-in steel pipe	7.3	195 dB (rms) at 10 m.
Anacortes Ferry, WA [5]	36-in steel pipe	12.8	199 dB (rms) at 10 m.
Test Pile Program, NBKB [6]	36-in steel pipe	13.7–26.8	196 dB (rms) at 10 m.
EHW–2, Year 1, NBKB [7]	36-in steel pipe	13.7–26.8	194 dB (rms) at 10 m.[9]
Carderock Pier, NBKB [8]	42-in steel pipe	14.6–21.3	195 dB (rms) at 10 m.[10]
Russian River, CA [3]	48-in CISS pipe	2	195 dB (rms) at 10 m.
Test Pile Program, NBKB [6]	48-in steel pipe	26.2–28	194 dB (rms) at 10 m.
California [3]	60-in CISS pipe	10	195 dB (rms) at 10 m.[11]
Richmond-San Rafael Bridge, CA [3]	66-in cast-in-drilled-hole steel pipe	4	195 dB (rms) at 10 m.

Sources: [1] MacGillivray and Racca, 2005; [2] Laughlin, 2005; [3] Caltrans, 2012; [4] MacGillivray, 2007; [5] Sexton, 2007; [6] Illingworth & Rodkin, 2012; [7] Illingworth & Rodkin, 2013; [8] DoN, 2009.
[9] Bubble curtain in place for all measurements.
[10] Source level at 10 m estimated based on measurements at distances of 48–387 m.
[11] Specific location/project unknown. Summary value possibly comprising multiple events rather than a single event.

The tables presented here detail representative pile driving SPLs that have been recorded from similar construction activities in recent years. Due to the similarity of these actions and the Navy's proposed action, these values represent reasonable SPLs which could be anticipated, and which were used in the acoustic modeling and analysis. Table 7 displays SPLs measured during pile installation using an impact hammer and Table 8 displays SPLs measured during pile installation using a vibratory hammer. For impact driving, a source value of 195 dB rms at 10 m was the average value reported from the listed studies, and is consistent with measurements from the TPP and Carderock Pier pile driving projects at NBKB, which had similar pile materials (48- and 42-inch hollow steel piles, respectively), water depth, and substrate type as the EHW–2 project site. For vibratory pile driving, the Navy selected the most conservative value (72-in piles; 180 dB rms at 10 m) available when initially assessing EHW–2 project impacts, prior to the first year of the project. Since then, data have become available that indicate, on average, a lower source level for vibratory pile driving (e.g., 172 dB rms for 48-in steel piles). However, for consistency we have maintained the initial conservative assumption regarding source level for vibratory driving.

TABLE 8—UNDERWATER SPLS FROM MONITORED CONSTRUCTION ACTIVITIES USING VIBRATORY HAMMERS

Project and location	Pile size and type	Water depth	Measured SPLs
Vashon Terminal, WA [1]	30-in steel pipe	6 m	165 dB (rms) at 11 m.
Keystone Terminal, WA [2]	30-in steel pipe	8 m	165 dB (rms) at 10 m.
Edmonds Ferry Terminal, WA [3]	36-in steel pipe	5.8 m	162–163 dB (rms) at 10 m.
Anacortes Ferry Terminal, WA [4]	36-in steel pipe	12.7 m	168–170 dB (rms) at 10 m.
California [5]	36-in steel pipe	5 m	170 dB/175 dB (rms) at 10 m.[8]
Test Pile Program, NBKB [6]	36-in steel pipe	13.7–26.8 m	154–169 dB (rms) at 10 m.
EHW–2, Year 1, NBKB [7]	36-in steel pipe	Avg of mid- and deep-depth	169 dB (rms) at 10 m.
Test Pile Program, NBKB [6]	48-in steel pipe	13.7–26.8 m	172 dB (rms) at 10 m.
California [3]	72-in steel pipe	5 m	170 dB/180 dB (rms) at 10 m.[8]

Sources: [1] Laughlin, 2010a; [2] Laughlin, 2010b; [3] Loughlin, 2011; [4] Loughlin, 2012; [5] Caltrans, 2012; [6] Illingworth & Rodkin, 2012; [7] Illingworth & Rodkin, 2013.
[8] Specific location/project unknown. Summary value possibly comprising multiple events rather than a single event. Average and maximum values presented.

All calculated distances to and the total area encompassed by the marine mammal sound thresholds are provided in Table 9. The Navy used source values of 185 dB rms for impact driving (the mean SPL of the values presented in Table 7, less 10 dB of sound attenuation from use of a bubble curtain) and 180 dB rms for vibratory driving (the worst-case value from Table 8). Under the worst-case construction scenario, up to three vibratory drivers would operate simultaneously with one impact driver. Although radial distance and area associated with the zone ensonified to 160 dB (the behavioral harassment threshold for pulsed sounds, such as those produced by impact driving) are presented in Table 9, this zone would be subsumed by the 120-dB zone produced by vibratory driving. Thus, behavioral harassment of marine mammals associated with impact driving is not considered further here. Since the 160-dB threshold and the 120-dB threshold both indicate behavioral harassment, pile driving effects in the two zones are equivalent. Although not considered as a likely construction scenario, if only the impact driver was operated on a given day incidental take on that day would likely be lower because the area ensonified to levels producing Level B harassment would be smaller (although actual take would be determined by the numbers of marine mammals in the area on that day). The use of multiple vibratory rigs at the same time would result in a small additive effect with regard to produced SPLs; however, because the sound field produced by vibratory driving would be truncated by land in the Hood Canal, no increase in actual sound field produced would occur. There would be no overlap in the 190/180-dB sound fields produced by rigs operating simultaneously.

TABLE 9—CALCULATED DISTANCE(S) TO AND AREA ENCOMPASSED BY UNDERWATER MARINE MAMMAL SOUND THRESHOLDS DURING PILE INSTALLATION

Threshold	Distance [1] (m)	Area (km^2)
Impact driving, pinniped injury (190 dB)	4.9.	0.0001
Impact driving, cetacean injury (180 dB)	22.	0.002
Impact driving, disturbance (160 dB)[2]	724.	1.65
Vibratory driving, pinniped injury (190 dB)	2.1.	< 0.0001
Vibratory driving, cetacean injury (180 dB)	10.	0.0003
Vibratory driving, disturbance (120 dB)[3]	13,800.	41.4

[1] SPLs used for calculations were: 185 dB for impact and 180 dB for vibratory driving.
[2] Area of 160-dB zone presented for reference. Estimated incidental take calculated on basis of larger 120-dB zone.
[3] Hood Canal average width at site is 2.4 km, and is fetch limited from N to S at 20.3 km. Calculated range (over 222 km) is greater than actual sound propagation through Hood Canal due to intervening land masses. The greatest line-of-sight distance from pile driving locations unimpeded by land masses is 13.8 km (i.e., the maximum possible distance for propagation of sound).

Hood Canal does not represent open water, or free field, conditions. Therefore, sounds would attenuate as they encounter land masses or bends in the canal. As a result, the calculated distance and areas of impact for the 120-dB threshold cannot actually be attained at the project area. See Figure 6–1 of the Navy's application for a depiction of the size of areas in which each underwater sound threshold is predicted to occur at the project area due to pile driving.

Airborne Sound—Pile driving can generate airborne sound that could potentially result in disturbance to marine mammals (specifically, pinnipeds) which are hauled out or at the water's surface. As a result, the Navy analyzed the potential for pinnipeds hauled out or swimming at the surface near NBKB to be exposed to airborne SPLs that could result in Level B behavioral harassment. A spherical spreading loss model (i.e., 6 dB reduction in sound level for each doubling of distance from the source), in which there is a perfectly unobstructed (free-field) environment not limited by depth or water surface, is appropriate for use with airborne sound and was used to estimate the distance to the airborne thresholds.

As was discussed for underwater sound from pile driving, the intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. In order to determine reasonable airborne SPLs and their associated effects on marine mammals that are likely to result from pile driving at NBKB, studies with similar properties to the proposed action, as described previously, were evaluated. Table 10 details representative pile driving activities that have occurred in recent years. Due to the similarity of these actions and the Navy's proposed action, they represent reasonable SPLs which could be anticipated. Measured values from the TPP and EHW–2 (Year 1) are generally lower than those assumed for Navy's initial analysis for impact driving and generally equivalent to what was assumed for vibratory driving (see values for Northstar Island and Keystone Ferry Terminal in Table 10; note that these equate to approximately 118 dB and 96 dB when standardized to 15 m). However, these values were retained for impact assessment because they either result in a more conservative distance to threshold (impact driving) or are equivalent (vibratory driving). Please see Illingworth & Rodkin (2012, 2013) for details of the TPP and EHW–2 measurements.

TABLE 10—AIRBORNE SPLS FROM SIMILAR CONSTRUCTION ACTIVITIES

Project and location	Pile size and type	Method	Measured SPLs [5]
Northstar Island, AK [1]	42-in steel pipe	Impact	97 dB rms at 160 m.
TPP, NBKB [2]	36-in steel pipe	Impact	109 dB Lmax at 15 m.
TPP, NBKB [2]	48-in steel pipe	Impact	107 dB at 15 m.
EHW–2, Year 1, NBKB [3]	24-in steel pipe	Impact	111 dB Lmax at 15 m.
EHW–2, Year 1, NBKB [3]	36-in steel pipe	Impact	111 dB at 15 m.
EHW–2, Year 1, NBKB [3]	24-in steel pipe	Vibratory	95 dB Leq at 15 m.
Keystone Ferry Terminal, WA [4]	30-in steel pipe	Vibratory	98 dB rms at 11 m.
TPP, NBKB [2]	36-in steel pipe	Vibratory	93 dB Leq at 15 m.
EHW–2, Year 1, NBKB [3]	36-in steel pipe	Vibratory	103 Leq dB at 15 m.
TPP, NBKB [2]	48-in steel pipe	Vibratory	94 dB Leq at 15 m.

Sources: [1] Blackwell *et al.,* 2004; [2] Illingworth & Rodkin, 2012; [3] Illingworth & Rodkin, 2013; [4] Laughlin, 2010b.
[5] Lmax = maximum level; Leq = equivalent level.

Based on these values and the assumption of spherical spreading loss, distances to relevant thresholds and associated areas of ensonification under the multi-rig scenario (i.e., combined impact and vibratory driving) are presented in Table 11. See Figure 6–2 of the Navy's application for a depiction of the size of areas in which each airborne sound threshold is predicted to occur at the project area due to pile driving.

TABLE 11—DISTANCES TO RELEVANT SOUND THRESHOLDS AND AREAS OF ENSONIFICATION, AIRBORNE SOUND

Group	Threshold (dB)	Distance to threshold (m) and associated area of ensonification (km^2); combined rig scenario (worst-case)
Harbor seals	90 dB	361, 0.07
Sea lions ...	100 dB	114, 0.005

Marine Mammal Densities

The Navy has developed, with input from regional marine mammal experts, estimates of marine mammal densities in Washington inland waters for the Navy Marine Species Density Database (NMSDD). A technical report (Hanser *et al.,* 2014) describes methodologies and available information used to derive these densities, which are generally considered the best available information for Washington inland waters, except where specific local abundance information is available. Initial impact assessment for the EHW–2 project relied on data available at the time the application was submitted, including survey efforts conducted in the project area. Here, we rely on NMSDD density information for the harbor seal, killer whale, and harbor porpoise and use local abundance data for the California sea lion and Steller sea lion. This approach is the same as that taken for estimating take for Year 2 of the EHW–2 project, which represented a departure from the approach taken for Year 1 of EHW–2 for certain species. Please see Appendix A of the Navy's application for more information on the NMSDD information.

For all species, the most appropriate information available was used to estimate the number of potential incidences of take. For harbor seals, this involved published literature describing harbor seal research conducted in Washington and Oregon, including counts from Hood Canal (Huber *et al.,* 2001; Jeffries *et al.,* 2003). Killer whales are known from two periods of occurrence (2003 and 2005) and are not known to preferentially use any specific portion of the Hood Canal. Therefore, density was calculated as the maximum number of individuals expected to be present at a given time (Houghton *et al.,* in prep.), divided by the area of Hood Canal. The best information available for the remaining species in Hood Canal came from surveys conducted by the Navy at the NBKB waterfront or in the vicinity of the project area.

Beginning in April 2008, Navy personnel have recorded sightings of marine mammals occurring at known haul-outs along the NBKB waterfront, including docked submarines or other structures associated with NBKB docks and piers and the nearshore pontoons of the floating security fence. Sightings of marine mammals within the waters adjoining these locations were also recorded. Sightings were attempted whenever possible during a typical work week (i.e., Monday through Friday), but inclement weather, holidays, or security constraints often precluded surveys. These sightings took place frequently, although without a formal survey protocol. During the surveys, staff visited each of the above-mentioned locations and recorded observations of marine mammals. Surveys were conducted using binoculars and the naked eye from shoreline locations or the piers/wharves themselves. Because these surveys consist of opportunistic sighting data from shore-based observers, largely of hauled-out animals, there is no associated survey area appropriate for use in calculating a density from the abundance data. Data were compiled for the period from April 2008 through December 2013 for analysis here, and these data provide the basis for take estimation for Steller and California sea lions. Other information, including sightings data from other Navy survey efforts at NBKB, is available for these two species, but these data provide the most conservative (i.e., highest) local abundance estimates (and thus the highest estimates of potential take). These data are also most appropriate for these two species because they are attracted to the NBKB waterfront due to the availability of suitable haul-out sites. The cetaceans and (to a lesser extent) the harbor seal are not specifically attracted to any attribute of the project area and are assumed to occur uniformly throughout the project area.

In addition, vessel-based marine wildlife surveys were conducted according to established survey protocols during July through September 2008 and November through May 2009–10 (Tannenbaum *et al.,* 2009, 2011). Eighteen complete surveys of the nearshore area resulted in observations of four marine mammal species (harbor seal, California sea lion, harbor porpoise, and Dall's porpoise). These surveys operated along pre-determined transects parallel to the shoreline from the nearshore out to approximately 550 m from shoreline, at a spacing of 100 yd, and covered the entire NBKB waterfront (approximately 3.9 km^2 per survey) at a speed of 5 kn or less. Two observers recorded sightings of marine mammals both in the water and hauled out, including date, time, species, number of individuals, age (juvenile, adult), behavior (swimming, diving, hauled out, avoidance dive), and haul-out location. Positions of marine mammals were obtained by recording distance and bearing to the animal with a rangefinder and compass, noting the concurrent location of the boat with GPS, and, subsequently, analyzing these data to produce coordinates of the locations of all animals detected. These surveys resulted in the only observation of a Dall's porpoise near NBKB, but these surveys do not afford any information used in take estimation here.

The Navy also conducted vessel-based line transect surveys in Hood Canal on non-construction days during the 2011 TPP in order to collect additional data for species present in Hood Canal. These surveys detected three marine mammal species (harbor seal, California sea lion, and harbor porpoise), and included surveys conducted in both the main body of Hood Canal, near the project area, and baseline surveys conducted for comparison in Dabob Bay, an area of Hood Canal that is not affected by sound from Navy actions at the NBKB waterfront. The surveys operated along pre-determined transects that followed a double saw-tooth pattern to achieve uniform coverage of the entire NBKB waterfront. The vessel traveled at a speed of approximately 5 kn when transiting along the transect lines. Two observers recorded sightings of marine mammals both in the water and hauled out, including the date, time, species, number of individuals, and behavior (swimming, diving, etc.). Positions of marine mammals were obtained by recording the distance and bearing to the animal(s), noting the concurrent location of the boat with GPS, and subsequently analyzing these data to produce coordinates of the locations of all animals detected. Sighting information for harbor porpoises was corrected for detectability ($g(0) = 0.54$; Barlow, 1988; Calambokidis *et al.,* 1993; Carretta *et al.,* 2001).

Distance sampling methodologies were used to estimate densities of animals for the data. This information provides the best information for harbor porpoises.

The cetaceans, as well as the harbor seal, appear to range throughout Hood Canal; therefore, this analysis assumes that harbor seal, transient killer whale, and harbor porpoise are uniformly distributed in the project area. However, it should be noted that there have been no observations of cetaceans within the floating security barriers at NBKB; these barriers thus appear to effectively prevent cetaceans from approaching the shutdown zones. Although the Navy will implement a precautionary shutdown zone for cetaceans, anecdotal evidence suggests that cetaceans are not at risk of Level A harassment at NBKB even from louder activities (e.g., impact pile driving). The remaining species that occur in the project area, Steller sea lion and California sea lion, do not appear to utilize most of Hood Canal. The sea lions appear to be attracted to the man-made haul-out opportunities along the NBKB waterfront while dispersing for foraging opportunities elsewhere in Hood Canal. California sea lions were not reported during aerial surveys of Hood Canal (Jeffries *et al.,* 2000), and Steller sea lions have been documented almost solely at the NBKB waterfront.

Description of Take Calculation

The take calculations presented here rely on the best data currently available for marine mammal populations in the Hood Canal. The formula was developed for calculating take due to pile driving activity and applied to each group-specific sound impact threshold. The formula is founded on the following assumptions:

- All marine mammal individuals potentially available are assumed to be present within the relevant area, and thus incidentally taken;
- An individual can only be taken once during a 24-h period;
- There were will be 195 total days of activity and the largest ZOI equals 41.4 km^2;
- Exposure modeling assumes that one impact pile driver and three vibratory pile drivers are operating concurrently; and,
- Exposures to sound levels above the relevant thresholds equate to take, as defined by the MMPA.

The calculation for marine mammal takes is estimated by:

Exposure estimate = (n * ZOI) * days of total activity

Where:

n = density estimate used for each species/season

ZOI = sound threshold ZOI area; the area encompassed by all locations where the SPLs equal or exceed the threshold being evaluated

n * ZOI produces an estimate of the abundance of animals that could be present in the area for exposure, and is rounded to the nearest whole number before multiplying by days of total activity.

The ZOI impact area is the estimated range of impact to the sound criteria. The relevant distances specified in Table 9 were used to calculate ZOIs around each pile. The ZOI impact area took into consideration the possible affected area of the Hood Canal from the pile driving site furthest from shore with attenuation due to land shadowing from bends in the canal. Because of the close proximity of some of the piles to the shore, the narrowness of the canal at the project area, and the maximum fetch, the ZOIs for each threshold are not necessarily spherical and may be truncated.

While pile driving can occur any day throughout the in-water work window, and the analysis is conducted on a per day basis, only a fraction of that time (typically a matter of hours on any given day) is actually spent pile driving. Acoustic monitoring conducted as part of the TPP and year one of EHW–2 demonstrated that Level B harassment zones for vibratory pile driving are likely to be smaller than the zones estimated through modeling based on measured source levels and practical spreading loss. Also of note is the fact that the effectiveness of mitigation measures in reducing takes is typically not quantified in the take estimation process. In addition, equating exposure with response (i.e., a behavioral response meeting the definition of take under the MMPA) is a simplistic and conservative assumption. For these reasons, these take estimates are likely to be conservative. See Table 14 for total estimated incidents of take.

Airborne Sound—No incidences of incidental take resulting solely from airborne sound are likely, as distances to the harassment thresholds would not reach areas where pinnipeds may haul out. Harbor seals can haul out at a variety of natural or manmade locations, but the closest known harbor seal haul-out is at the Dosewallips River mouth (London, 2006) and Navy waterfront surveys and boat surveys have found it rare for harbor seals to haul out along the NBKB waterfront (Agness and Tannenbaum, 2009; Tannenbaum *et al.,* 2009, 2011; DoN, 2013). Individual seals have occasionally been observed hauled out on pontoons of the floating security fence within the restricted areas of NBKB, but this area is not within the airborne disturbance ZOI. Nearby piers are elevated well above the surface of the water and are inaccessible to pinnipeds, and seals have not been observed hauled out on the adjacent shoreline. Sea lions typically haul out on submarines docked at Delta Pier, approximately one mile from the project site.

We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with heads above water. However, these animals would previously have been 'taken' as a result of exposure to underwater sound above the behavioral harassment thresholds, which are in all cases larger than those associated with airborne sound. Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Multiple incidents of exposure to sound above NMFS' thresholds for behavioral harassment are not believed to result in increased behavioral disturbance, in either nature or intensity of disturbance reaction. Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

California Sea Lion—California sea lions occur regularly in the vicinity of the project site, with the exception of approximately mid-June through mid-August, as determined by Navy waterfront surveys conducted from April 2008 through December 2013 (Table 12). With regard to the range of this species in Hood Canal and the project area, we assume on the basis of waterfront observations (Agness and Tannenbaum, 2009; Tannenbaum *et al.,* 2009, 2011; HDR 2012a, 2012b; Hart Crowser, 2013) that the opportunity to haul out on submarines docked at Delta Pier is a primary attractant for California sea lions in Hood Canal, as they are not typically observed elsewhere in Hood Canal. Abundance is calculated as the monthly average of the maximum number observed in a given month, as opposed to the overall average (Table 12). That is, the maximum number of animals observed on any one day in a given month was averaged for 2008–13, providing a monthly average of the maximum daily number observed. The largest monthly average (71 animals) was recorded in November, as was the largest single daily count (122 animals). The first California sea lion was observed at NBKB in August 2009, and their occurrence has been increasing since that time (DoN, 2013).

TABLE 12—CALIFORNIA SEA LION SIGHTING INFORMATION FROM NBKB, APRIL 2008–DECEMBER 2013

Month	Number of surveys	Number of surveys with animals present	Frequency of presence [2]	Abundance [3]
January	47	36	0.77	31.0
February	51	44	0.86	39.2
March	47	45	0.96	53.3
April	69	57	0.83	43.2
May	73	58	0.79	24.5
June	73	17	0.23	7.4
July	67	1	0.01	0.5
August	67	12	0.18	2.2
September	58	34	0.59	22.8
October	69	65	0.94	57.8
November	65	65	1	70.5
December	54	44	0.81	49.6
Total or average (in-water work season only) [1]	478	301	0.63	33.9

[1] Totals (number of surveys) and averages (frequency and abundance) presented for in-water work season (July–February) only. Information from March–June presented for reference.
[2] Frequency is the number of surveys with California sea lions present/number of surveys conducted.
[3] Abundance is calculated as the monthly average of the maximum daily number observed in a given month.

California sea lion density for Hood Canal was calculated to be 0.28 animals/km^2 for purposes of the NMSDD (Hanser *et al.,* 2014). Jeffries *et al.* (2003) split the Washington inland waters area into five regions, including Hood Canal as a discrete region. To determine density, the number of California sea lions known to use haul-outs in the Hood Canal was identified and then divided by the area of the Hood Canal to give a total density estimate. However, this density was derived by averaging data collected year-round. This project will occur during the designated in-water work window, so it is more appropriate to use data collected at the NBKB waterfront during those months (July–February). The average of the monthly averages for maximum daily numbers observed (in a given month, during the in-water work window) is 33.9 animals (see Table 12). Exposures were calculated assuming 34 individuals could be present, and therefore exposed to sound exceeding the behavioral harassment threshold, on each day of pile driving. This methodology is conservative in that it assumes that all individuals present potentially would be taken on any given day of activity.

Steller Sea Lion

Steller sea lions were first documented at the NBKB waterfront in November 2008, while hauled out on submarines at Delta Pier, and have been periodically observed from October to April since that time, as determined by Navy waterfront surveys conducted from April 2008 through December 2013 (Table 13). Steller sea lions are occasionally observed in early May or late September, but have never been observed from approximately mid-May through mid-September. We assume, on the basis of waterfront observations (Agness and Tannenbaum, 2009; Tannenbaum *et al.,* 2009, 2011; HDR 2012a, 2012b; Hart Crowser, 2013), that Steller sea lions use available haul-outs and foraging habitat similarly to California sea lions. On occasions when Steller sea lions are observed, they typically occur in mixed groups with California sea lions also present, allowing observers to confirm their identifications based on discrepancies in size and other physical characteristics. (DoN, 2013)

TABLE 13—STELLER SEA LION SIGHTING INFORMATION FROM NBKB, APRIL 2008–DECEMBER 2013

Month	Number of surveys	Number of surveys with animals present	Frequency of presence [2]	Abundance [3]
January	47	12	0.26	1.5
February	51	7	0.14	1.4
March	47	12	0.26	1.8
April	69	21	0.30	2.3
May	73	6	0.08	1.5
June	73	0	0	0
July	67	0	0	0
August	67	0	0	0
September	58	2	0.03	0.8
October	69	30	0.43	3.7
November	65	37	0.57	5.7
December	54	18	0.33	2.6
Total or average (in-water work season only) [1]	478	106	0.22	2.0

[1] Totals (number of surveys) and averages (frequency and abundance) presented for in-water work season (July–February) only. Information from March–June presented for reference.
[2] Frequency is the number of surveys with Steller sea lions present/number of surveys conducted.
[3] Abundance is calculated as the monthly average of the maximum daily number observed in a given month.

Abundance is calculated in the same manner described for California sea lions (Table 13). That is, the maximum number of animals observed on any one day in a given month was averaged for 2008–13, providing a monthly average of the maximum daily number observed. The largest monthly average (six animals) was recorded in November, as was the largest single daily count (eleven animals). NMSDD density for Steller sea lions was also calculated in a similar manner as that for California sea lions (0.03 animals/km^2; Hanser *et al.,* 2014) and, as for California sea lions, local abundance data specific to the in-water work window is the most appropriate information for use in estimating take. The average of the monthly averages for maximum daily numbers observed (in a given month, during the in-water work window) is two animals (see Table 13). However, in recognition that numbers of Steller sea lions have been increasing every year and reflecting a more typical group size when Steller sea lions have been observed, the Navy has requested a precautionary assumption that three individuals could be present, and therefore exposed to sound exceeding the behavioral harassment threshold, on each day of pile driving.

Harbor Seal—The harbor seal density used here is the same as that in the NMSDD (Hanser *et al.,* 2014). Jeffries *et al.* (2003) conducted aerial surveys of harbor seals in 1999 for the Washington Department of Fish and Wildlife, dividing the survey areas into seven strata (including five in inland waters and two in coastal waters). Survey effort in the Hood Canal stratum yielded a count of 711 harbor seals hauled out. To account for animals in the water and not observed during survey counts, a correction factor of 1.53 was applied (Huber *et al.,* 2001) to derive a total Hood Canal population of 1,088 seals. The correction factor (1.53) was based on the proportion of time seals spend on land versus in the water over the course of a day, and was derived by dividing one by the percentage of time harbor seals spent on land. These data came from tags (VHF transmitters) applied to harbor seals at six areas (Grays Harbor, Tillamook Bay, Umpqua River, Gertrude Island, Protection/Smith Islands, and Boundary Bay, BC) within two different harbor seal stocks (the coastal stock and the Washington inland waters stock) over four survey years. Although the sampling areas included both coastal and inland waters, with pooled correction factors of 1.50 and 1.57, respectively, Huber *et al.* (2001) found no significant difference in the proportion of seals ashore among the six sites and no interannual variation at one site studied across years. Therefore, we retain the total pooled correction factor of 1.53 here. The Hood Canal population is part of the inland waters stock, and while not specifically sampled, Jeffries *et al.* (2003) found the VHF data to be broadly applicable to the entire Washington harbor seal population. Using this information and the area of the Hood Canal stratum yields a density estimate of 3.04 animals/km^2.

However, to determine an instantaneous in-water density estimate, a secondary correction must be applied to account for harbor seals that are hauled out at any given moment. The tagging research in 1991 and 1992 conducted by Huber *et al.* (2001) was repeated for two sites by Jeffries *et al.* (2003), using the same methods for the 1999 and 2000 survey years. These surveys indicated that approximately 35 percent of harbor seals are in the water versus hauled out on a daily basis (Huber *et al.,* 2001; Jeffries *et al.,* 2003). A corrected density was derived from the number of harbor seals that are present in the water at any one time (35 percent of 1,088, or approximately 381 individuals), divided by the area of the Hood Canal, yielding an estimate of 1.06 animals/km^2.

We recognize that over the course of the day, while the proportion of animals in the water may not vary significantly, different individuals may enter and exit the water (i.e., it is probable that greater than 35 percent of seals will enter the water at some point during the day). Therefore, an instantaneous estimate of animals in the water at a given time may not produce an accurate assessment of the number of individuals that enter the water over the daily duration of the activity. However, no data exist regarding fine-scale harbor seal movements within the project area on time durations of less than a day, thus precluding an assessment of ingress or egress of different animals through the action area. As such, it is impossible, given available data, to determine exactly what number of individuals above 35 percent may potentially be exposed to underwater sound. Therefore, we are left to make a decision, on the basis of limited available information, regarding which of these two scenarios (i.e., 100 percent versus 35 percent of harbor seals are in the water and exposed to sound) produces a more accurate estimate of the potential incidents of take.

First, we understand that hauled-out harbor seals are necessarily at haul-outs. No significant harbor seal haul-outs are located within or near the action area. Harbor seals observed in the vicinity of the NBKB shoreline are rarely hauled-out (for example, in formal surveys during 2007–08, approximately 86 percent of observed seals were swimming), and when hauled-out, they do so opportunistically (i.e., on floating booms rather than established haul-outs). Harbor seals are typically unsuited for using manmade haul-outs at NBKB, which are used by the larger sea lions. Primary harbor seal haul-outs in Hood Canal are generally located at significant distance (20 km or more) from the action area in Dabob Bay or further south (see Figure 4–1 in the Navy's application), meaning that animals casually entering the water from haul-outs or flushing due to some disturbance at those locations would not be exposed to underwater sound from the project; rather, only those animals embarking on foraging trips and entering the action area may be exposed.

Second, we know that harbor seals in Hood Canal are not likely to have a uniform distribution as is assumed through use of a density estimate, but are likely to be relatively concentrated near areas of interest such as the haul-outs found in Dabob Bay or foraging areas. The majority of the action area consists of the Level B harassment zone in deeper waters of Hood Canal; past observations from surveys and required monitoring have confirmed that harbor seals are less abundant in these waters.

Third, a typical pile driving day (in terms of the actual time spent driving) is somewhat shorter than may be assumed (i.e., 8–15 hours) as a representative pile driving day based on daylight hours. Construction scheduling and notional production rates in concert with typical delays mean that hammers are active for only some fraction of time on pile driving ''days''. During the first two years of construction for EHW–2, pile driving occurred over approximately 1,778 hours on 242 days, for an approximate average of seven hours per pile driving day.

What we know tells us that (1) the turnover of harbor seals (in and out of the water) is occurring primarily outside the action area and would not be expected to result in a greater number of individuals entering the action area within a given day and being harassed than is assumed; (2) there are likely to

be significantly fewer harbor seals in the majority of the action area than would be indicated by the uncorrected density; and (3) pile driving actually occurs over a limited timeframe on any given day (i.e., less total time per day than would be assumed based on daylight hours and non-continuously), reducing the amount of time over which new individuals might enter the action area within a given day. These factors lead us to believe that the corrected density is likely to more closely approximate the number of seals that may be found in the action area than does the uncorrected density, and there are no existing data that would indicate that the proportion of individuals entering the water within the predicted area of effect during pile driving would be dramatically larger than 35 percent. Therefore, using 100 percent of the population to estimate density would likely result in a gross exaggeration of potential take. Moreover, because the Navy is typically unable to determine from field observations whether the same or different individuals are being exposed, each observation is recorded as a new take, although an individual theoretically would only be considered as taken once in a given day.

Finally, we note that during the course of four previous IHAs over two years (2011–12), the Navy was authorized for 6,725 incidents of incidental harassment (corrected for actual number of pile driving days). The total estimate of actual incidents of take (observed takes and observations extrapolated to unobserved area) was 868. This is almost certainly negatively biased, but the huge disparity does provide confirmation that we are not significantly underestimating takes.

Killer Whales—Transient killer whales are uncommon visitors to Hood Canal, and may be present anytime during the year. Transient pods (six to eleven individuals per event) were observed in Hood Canal for lengthy periods of time (59–172 days) in 2003 (January–March) and 2005 (February–June), feeding on harbor seals (London, 2006). These whales used the entire expanse of Hood Canal for feeding. The NMSDD used monthly unique sightings data collected over the period 2004–2010 and an average group size of 5.16 (Houghton *et al.,* in prep.) to calculate densities on a seasonal basis for each of five geographic strata (Hanser *et al.,* 2014). Densities for the Hood Canal stratum range from 0–0.0006 animals/km^2 across all seasons, which would result in a prediction that zero animals would be harassed by the project activities.

However, while transient killer whales are rare in the Hood Canal, it is possible that a pod of animals could be present. In the event that this occurred in a similar manner to prior occurrences (e.g., 59–172 days) and incidental take were not authorized appropriately, there could be significant project delays. In estimating potential incidences of take here, we make three assumptions: (1) Transient killer whales have a reasonable likelihood of occurrence in the project area; (2) if whales were present, they would occur in a pod of six animals (the minimum pod size seen in the 2003/2005 events but equivalent to the average pod size reported by Houghton et al. [in prep.]); and (3) the pod would be present for thirty days. This last assumption represents only half of the minimum time killer whales were present during the 2003/2005 events; however, we believe that it is unlikely the whales would remain in the area for a longer period in the presence of a harassing stimulus (i.e., pile driving). In the absence of any overriding contextual element (e.g., NBKB is not important as a breeding area, and provides no unusual concentration of prey), it is reasonable to assume that whales would leave the area if exposed to potentially harassing levels of sound on each day that they were present. In summary, we assume here that, if killer whales occurred in the project area, a pod of six whales would be present—and could potentially be harassed—for thirty days.

Harbor Porpoise—During vessel-based line transect surveys on non-construction days during the TPP, harbor porpoises were frequently sighted within several kilometers of the base, mostly to the north or south of the project area, but occasionally directly across from the NBKB waterfront on the far side of Toandos Peninsula. Harbor porpoise presence in the immediate vicinity of the base (i.e., within one kilometer) remained low. These data were used to generate a density for Hood Canal. Based on guidance from other line transect surveys conducted for harbor porpoises using similar monitoring parameters (e.g., boat speed, number of observers) (Barlow, 1988; Calambokidis *et al.,* 1993; Carretta *et al.,* 2001), the Navy determined the effective strip width for the surveys to be one kilometer, or a perpendicular distance of 500 m from the transect to the left or right of the vessel. The effective strip width was set at the distance at which the detection probability for harbor porpoises was equivalent to one, which assumes that all individuals on a transect are detected. Only sightings occurring within the effective strip width were used in the density calculation. By multiplying the trackline length of the surveys by the effective strip width, the total area surveyed during the surveys was 471.2 km^2. Thirty-eight individual harbor porpoises were sighted within this area, resulting in a density of 0.0806 animals/km^2. To account for availability bias, or the animals which are unavailable to be detected because they are submerged, the Navy utilized a g(0) value of 0.54, derived from other similar line transect surveys (Barlow, 1988; Calambokidis *et al.,* 1993; Carretta *et al.,* 2001). This resulted in a corrected density of 0.149 animals/km^2.

TABLE 14—NUMBER OF POTENTIAL INCIDENTAL TAKES OF MARINE MAMMALS WITHIN VARIOUS ACOUSTIC THRESHOLD ZONES

Species	Density	Underwater		Total proposed authorized takes [2]
		Level A	Level B 120 dB) [1]	
California sea lion	[3] 34	0	6,630	6,630
Steller sea lion	[3] 2	0	585	585
Harbor seal	1.06	0	8,580	8,580
Killer whale (transient)	n/a	0	180	[4] 180
Harbor porpoise	0.149	0	1,170	1,170

[1] The 160-dB acoustic harassment zone associated with impact pile driving would always be subsumed by the 120-dB harassment zone produced by vibratory driving. Therefore, takes are not calculated separately for the two zones.

[2] For species with associated density, density was multiplied by largest ZOI (i.e., 41.4 km). The resulting value was rounded to the nearest whole number and multiplied by the 195 days of activity. For species with abundance only, that value was multiplied directly by the 195 days of activity. We assume for reasons described earlier that no takes would result from airborne noise.

[3] Figures presented are abundance numbers, not density, and are calculated as the average of average daily maximum numbers per month (see Tables 12–13). Abundance numbers are rounded to the nearest whole number for take estimation. The Steller sea lion abundance was increased to three for take estimation purposes.

[4] We assumed that a single pod of six killer whales could be present for as many as 30 days of the duration.

Analyses and Preliminary Determinations

Negligible Impact Analysis

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, we consider other factors, such as the likely nature of any responses (e.g., intensity, duration), the context of any responses (e.g., critical reproductive time or location, migration), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

Pile driving activities associated with the wharf construction project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from underwater sounds generated from pile driving. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving is happening, which is likely to occur because (1) harbor seals, which are frequently observed along the NBKB waterfront, are present within the WRA; (2) sea lions, which are less frequently observed, transit the WRA en route to haul-outs to the south at Delta Pier; or (3) cetaceans or pinnipeds transit the larger Level B harassment zone outside of the WRA.

No injury, serious injury, or mortality is anticipated given the methods of installation and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, vibratory hammers will be the primary method of installation, and this activity does not have significant potential to cause injury to marine mammals due to the relatively low source levels produced (likely less than 180 dB rms) and the lack of potentially injurious source characteristics. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. When impact driving is necessary, required measures (use of a sound attenuation system, which reduces overall source levels as well as dampening the sharp, potentially injurious peaks, and implementation of shutdown zones) significantly reduce any possibility of injury. Given sufficient ''notice'' through use of soft start (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to its becoming potentially injurious. The likelihood that marine mammal detection ability by trained observers is high under the environmental conditions described for Hood Canal further enables the implementation of shutdowns to avoid injury, serious injury, or mortality.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from past projects at NBKB, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. In response to vibratory driving, harbor seals (which may be somewhat habituated to human activity along the NBKB waterfront) have been observed to orient towards and sometimes move towards the sound. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness to those individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment will be reduced to the level of least practicable impact through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the project area while the activity is occurring.

For pinnipeds, no rookeries are present in the project area, there are no haul-outs other than those provided opportunistically by man-made objects, and the project area is not known to provide foraging habitat of any special importance (other than is afforded by the known migration of salmonids generally along the Hood Canal shoreline). No cetaceans are expected within the WRA. The pile driving activities analyzed here are similar to other nearby construction activities within the Hood Canal, including recent projects conducted by the Navy at the same location (TPP and EHW–1 pile replacement project, Years 1–2 of EHW–2; barge mooring project) as well as work conducted in 2005 for the Hood Canal Bridge (SR–104) by the Washington State Department of Transportation, which have taken place with no reported injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment.

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of injury, serious injury, or mortality may reasonably be considered discountable; (2) the anticipated incidences of Level B harassment consist of, at worst, temporary modifications in behavior; (3) the absence of any major rookeries and only a few isolated and opportunistic haul-out areas near or adjacent to the project site; (4) the absence of cetaceans within the WRA and generally sporadic occurrence outside the WRA; (5) the absence of any other known areas or features of special significance for foraging or reproduction within the project area; and (6) the presumed efficacy of the planned mitigation measures in reducing the effects of the specified activity to the level of least practicable impact. In addition, none of these stocks are listed under the ESA or designated as depleted under the MMPA. All of the stocks for which take is authorized are thought to be

increasing or to be within OSP size. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, including those conducted at the same time of year and in the same location, demonstrate that the potential effects of the specified activity will have only short-term effects on individuals. The specified activity is not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, we preliminarily find that the total marine mammal take from Navy's wharf construction activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers Analysis

The numbers of animals authorized to be taken for Steller and California sea lions would be considered small relative to the relevant stocks or populations (less than one percent for Steller sea lions and less than three percent for California sea lions) even if each estimated taking occurred to a new individual—an extremely unlikely scenario. For pinnipeds occurring at the NBKB waterfront, there will almost certainly be some overlap in individuals present day-to-day. Further, for the pinniped species, these takes could potentially occur only within some small portion of the overall regional stock. For example, of the estimated 296,500 California sea lions, only certain adult and subadult males—believed to number approximately 3,000–5,000 by Jeffries *et al.* (2000)—travel north during the non-breeding season. That number has almost certainly increased with the population of California sea lions—the 2000 SAR for California sea lions reported an estimated population size of 204,000–214,000 animals—but likely remains a relatively small portion of the overall population.

For harbor seals, animals found in Hood Canal belong to a closed, resident population estimated at approximately 1,000 animals by Jeffries *et al.* (2003), and takes are likely to occur only within some portion of that closed population, rather than to animals from the Washington inland waters stock as a whole. The animals that are resident to Hood Canal, to which any incidental take would accrue, represent only seven percent of the best estimate of regional stock abundance. For transient killer whales, we estimate take based on an assumption that a single pod of whales, comprising six individuals, is present in the vicinity of the project area for the entire duration of the project. These six individuals represent a small number of transient killer whales, for which a conservative minimum estimate of 243 animals is given in the draft 2013 SAR.

Little is known about harbor porpoise use of Hood Canal, and prior to monitoring associated with recent pile driving projects at NBKB, it was believed that harbor porpoises were infrequent visitors to the area. It is unclear from the limited information available what relationship harbor porpoise occurrence in Hood Canal may hold to the regional stock or whether similar usage of Hood Canal may be expected to be recurring. It is unknown how many unique individuals are represented by sightings in Hood Canal, although it is unlikely that these animals represent a large proportion of the overall stock. While we believe that the authorized numbers of incidental take would be likely to occur to a much smaller number of individuals, the number of incidents of take relative to the stock abundance (approximately eleven percent) remains within the bounds of what we consider to be small numbers.

As summarized here, the estimated numbers of potential incidents of harassment for these species are likely much higher than will realistically occur. This is because (1) we use the maximum possible number of days (195) in estimating take, despite the fact that multiple delays and work stoppages are likely to result in a lower number of actual pile driving days; (2) sea lion estimates rely on the averaged maximum daily abundances per month, rather than simply an overall average which would provide a much lower abundance figure; and (3) the estimates for transient killer whales use sparse information to attempt to account for the potential presence of species that have not been observed in Hood Canal since 2005. In addition, potential efficacy of mitigation measures in terms of reduction in numbers and/or intensity of incidents of take has not been quantified. Therefore, these estimated take numbers are likely to be precautionary. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we preliminarily find that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, we have determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

No marine mammal species listed under the ESA are expected to be affected by these activities. Therefore, we have determined that a section 7 consultation under the ESA is not required.

National Environmental Policy Act (NEPA)

In compliance with the NEPA of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (CEQ; 40 CFR parts 1500–1508), the Navy prepared an Environmental Impact Statement (EIS) and issued a Record of Decision (ROD) for this project. We acted as a cooperating agency in the preparation of that document, and reviewed the EIS and the public comments received and determined that preparation of additional NEPA analysis was not necessary. In compliance with NEPA, the CEQ regulations, and NOAA Administrative Order 216–6, we subsequently adopted the Navy's EIS and issued our own ROD for the issuance of the first IHA on July 6, 2012, and reaffirmed the ROD before issuing a second IHA in 2013.

We have reviewed the Navy's application for a renewed IHA for ongoing construction activities for 2014–15 and the 2013–14 monitoring report. Based on that review, we have determined that the proposed action is very similar to that considered in the previous IHAs. In addition, no significant new circumstances or information relevant to environmental concerns have been identified. Thus, we have determined preliminarily that the preparation of a new or supplemental NEPA document is not necessary, and will, after review of public comments determine whether or not to reaffirm our 2012 ROD. The 2012 NEPA documents are available for review at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.*

Proposed Authorization

As a result of these preliminary determinations, we propose to issue an IHA to the Navy for conducting the described wharf construction activities

in the Hood Canal, from July 16, 2014 through February 15, 2015, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This Incidental Harassment Authorization (IHA) is valid from July 16, 2014 through February 15, 2015.

2. This IHA is valid only for pile driving and removal activities associated with construction of Explosive Handling Wharf #2 (EHW–2) in the Hood Canal, Washington.

3. General Conditions

(a) A copy of this IHA must be in the possession of the Navy, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking are the harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), killer whale (transient only; *Orcinus orca*), Steller sea lion (*Eumetopias jubatus*), and the harbor porpoise (*Phocoena phocoena*).

(c) The taking, by Level B harassment only, is limited to the species listed in condition 3(b). See Table 1 (attached) for numbers of take authorized.

(d) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(e) The Navy shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, and Navy staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

4. Mitigation Measures

In order to ensure the least practicable impact on the species listed in condition 3(b), the holder of this Authorization is required to implement the following mitigation measures:

(a) During impact pile driving, the Navy shall implement a minimum shutdown zone of 20 m radius around the pile, to be effective for all species of pinniped, and a minimum shutdown zone of 85 m radius around the pile, to be effective for all species of cetacean. If a marine mammal comes within the relevant zone, such operations shall cease. No marine mammal shall be exposed to sound pressure levels equaling or exceeding 180/190 dB rms (re 1 μPa) for cetaceans and pinnipeds, respectively, in order to prevent unauthorized Level A harassment.

(b) During vibratory pile driving and removal, the Navy shall implement a minimum shutdown zone of 10 m radius around the pile for marine mammals. If a marine mammal comes within this zone, such operations shall cease. No marine mammal shall be exposed to sound pressure levels equaling or exceeding 180/190 dB rms (re 1 μPa) for cetaceans and pinnipeds, respectively, in order to prevent unauthorized Level A harassment.

(c) The Navy shall similarly avoid direct interaction with marine mammals during in-water heavy machinery work other than pile driving that may occur in association with the wharf construction project. If a marine mammal comes within 10 m of such activity, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions, as appropriate.

(d) The Navy shall establish monitoring locations as described in the Marine Mammal Monitoring Plan (Monitoring Plan; attached). For all pile driving activities, a minimum of one observer shall be assigned to each active pile driving rig in order to monitor the shutdown zones, while at least two additional observers shall be positioned for optimal monitoring of the surrounding waters within the Waterfront Restricted Area (WRA). These observers shall record all observations of marine mammals, regardless of distance from the pile being driven, as well as behavior and potential behavioral reactions of the animals.

(e) Monitoring shall take place from 15 minutes prior to initiation of pile driving activity through 30 minutes post-completion of pile driving activity. Pre-activity monitoring shall be conducted for 15 minutes to ensure that the shutdown zone is clear of marine mammals, and pile driving may commence when observers have declared the shutdown zone clear of marine mammals. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals shall be allowed to remain in the shutdown zone (i.e., must leave of their own volition) and their behavior shall be monitored and documented. Monitoring shall occur throughout the time required to drive a pile. The shutdown zone must be determined to be clear during periods of good visibility (i.e., the entire shutdown zone and surrounding waters within the WRA must be visible to the naked eye).

(f) If a marine mammal approaches or enters the shutdown zone, all pile driving activities at that location shall be halted (i.e., implementation of shutdown at one pile driving location may not necessarily trigger shutdown at other locations when pile driving is occurring concurrently). If pile driving is halted or delayed at a specific location due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal.

(g) Monitoring shall be conducted by qualified observers, as described in the Monitoring Plan. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator.

(h) Approved sound attenuation devices shall be used during impact pile driving operations. The Navy shall implement the necessary contractual requirements to ensure that such devices are capable of achieving optimal performance, and that deployment of the device is implemented properly such that no reduction in performance may be attributable to faulty deployment.

(i) The Navy shall use soft start techniques recommended by NMFS for impact pile driving. The soft start requires contractors to provide an initial set of strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, then two subsequent reduced energy strike sets. Soft start shall be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer.

(j) Pile driving shall only be conducted during daylight hours.

5. Monitoring

The holder of this Authorization is required to conduct marine mammal monitoring during pile driving activity. Marine mammal monitoring and reporting shall be conducted in accordance with the Monitoring Plan.

(a) The Navy shall collect sighting data and behavioral responses to pile driving for marine mammal species observed in the region of activity during the period of activity. All observers shall be trained in marine mammal identification and behaviors, and shall

have no other construction related tasks while conducting monitoring.

(b) For all marine mammal monitoring, the information shall be recorded as described in the Monitoring Plan.

6. Reporting

The holder of this Authorization is required to:

(a) Submit a draft report on all marine mammal monitoring conducted under the IHA within 90 calendar days of the end of the in-water work period. A final report shall be prepared and submitted within 30 days following resolution of comments on the draft report from NMFS. This report must contain the informational elements described in the Monitoring Plan, at minimum (see attached).

(b) Reporting injured or dead marine mammals:

i. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, Navy shall immediately cease the specified activities and report the incident to the Office of Protected Resources (301–427–8425), NMFS, and the West Coast Regional Stranding Coordinator (206–526–6550), NMFS. The report must include the following information:

A. Time and date of the incident;

B. Description of the incident;

C. Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);

D. Description of all marine mammal observations in the 24 hours preceding the incident;

E. Species identification or description of the animal(s) involved;

F. Fate of the animal(s); and

G. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Navy to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Navy may not resume their activities until notified by NMFS.

i. In the event that Navy discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (e.g., in less than a moderate state of decomposition), Navy shall immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS.

The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Navy to determine whether additional mitigation measures or modifications to the activities are appropriate.

ii. In the event that Navy discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), Navy shall report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. Navy shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

We request comment on our analysis, the draft authorization, and any other aspect of this Notice of Proposed IHA for Navy's wharf construction activities. Please include with your comments any supporting data or literature citations to help inform our final decision on Navy's request for an MMPA authorization.

Dated: May 27, 2014.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

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