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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3284

[Docket No. FR–5721–F–02]

RIN 2502–AJ19

Manufactured Housing Program Fee: Final Fee Increase

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's Manufactured Housing Program Fee regulations to raise the fee for each transportable section of a manufactured home that the manufacturer produces in accordance with HUD's Manufactured Home Construction and Safety Standards. This fee is referred to as a label fee. After considering public comments on HUD's May 2, 2014, proposed rule, this final rule raises the label fee to $100.

DATES: *Effective Date:* September 12, 2014.

FOR FURTHER INFORMATION CONTACT: Pamela B. Danner, Administrator, Office of Manufactured Housing Programs, Room 9168, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone number 202–708–6423 (this is not a toll free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll free Federal Relay Service at 1–800–877–8389.

SUPPLEMENTARY INFORMATION:

I. Background

HUD initiated this rulemaking to amend the amount of the fee collected from manufactured home manufacturers in accordance with section 620 (42 U.S.C. 5419) of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Improvement Act of 2000 (42 U.S.C. 5401 *et seq.*) (the Act). Under this authority, HUD collects these fees through the sale of labels which the manufactured home manufacturer must apply to each transportable section of a manufactured housing unit that it produces as evidence that the unit(s) conform to HUD's Manufactured Home Construction and Safety Standards regulations, codified at 24 CFR part 3280. HUD establishes and collects these fees to offset its expenses for carrying out its responsibilities under the Act, including carrying out inspections, developing manufactured home construction and safety standards under 42 U.S.C. 5403, and making payments to states as required by statute and HUD's regulations (see § 3284.10).

On May 2, 2014, at 79 FR 25035, HUD published a proposed rule for public comment proposing to increase the fee to an amount between $95 and $105 per transportable section of manufactured housing unit produced. In proposing this increase, HUD stated that while it has had authority to modify the fee in order to collect the overall amount of the fee established by HUD's appropriation for the applicable fiscal year, HUD has not exercised this authority since 2002. Given the increased costs related to overseeing the quality, safety, and durability of manufactured housing, the substantial reduction in fee collections since 2002 and, based on HUD's projected production levels of between 95,000 and 105,000 sections, HUD proposed raising the fee to an amount between $95 and $105 per transportable unit.

II. The Commenters

The public comment period for the May 2, 2014 (79 FR 25035), proposed rule closed June 2, 2014. HUD received two public comments in response to this proposed rule. The comments were submitted by national trade associations representing the manufactured housing industry. One commenter questioned the magnitude of the increase of the proposed fee but stated that it did not oppose the proposed fee modification, provided that additional revenues derived from the change were utilized to fund legitimate program functions in a manner proportionate to current and projected production levels, and are targeted and utilized to provide enhanced funding for State Administrative Agencies (SAAs). The second commenter also expressed concern regarding the magnitude of the increase of the proposed fee and stated that the proposed fee is not reflective of current production levels. The commenter also recommended that HUD withdraw the proposed rule and develop a formula for establishing a fee based on production. The following section of this preamble summarizes the significant issues raised by the commenters on the May 2, 2014, proposed rule and HUD's responses to these comments.

Comment: A commenter stated that HUD's proposed fee was an 143 to 169 percent increase over the current fee and, according to HUD, based on increased program expenses over the last 12 years. The commenter questioned, however, how program expenses could require such a significant increase in the fee when industry production over the same period decreased by 64 percent.

Response: Program operating expenses do not have a direct correlation to production levels since monitoring is an ongoing expense. Nevertheless, HUD recognizes the magnitude of the increase. As discussed in the preamble to this rule, however, HUD has not increased the label fee since 2002. Moreover, beginning in fiscal year (FY) 2014 and continuing through FY 2015, HUD plans to improve implementation of two key requirements of the Act. First, HUD plans to obtain contractual support to assist in the administration of the installation standards program in states that have not established approved programs and to assist in administering the dispute resolution program in states that have not established approved dispute resolution programs. HUD through its monitoring contractor also requires services to perform the design monitoring reviews of third party agencies as required by § 3282.452(e). Second, HUD is responsible for updating the construction and safety standards on a 2-year cycle, but has not been able to schedule a meeting of the Manufactured Housing Consensus Committee (MHCC) since October, 2012. To address this, HUD recently awarded a contract to an Administering

Organization as required by the Act and will begin holding regular meetings of the MHCC. Finally, beginning in FY 15, HUD plans to structure the Manufactured Housing Program to be self-supporting. This means that unlike most prior years, HUD will not receive a direct appropriation of funds from Congress but will be dependent on label fees for administering the program. As a result, HUD has and will continue to incur increased costs to administer the program and must establish a label at a level that will allow it to administer the program operations while relying less on additional appropriations from Congress.

Comment: The second commenter stated that HUD's proposed label fee represents an increase of between 243 and 269 percent over the current fee and fails to consider the overall cost of regulation under the Manufactured Housing program. According to the commenter, the industry pays approximately $6.4 million per year in fees to Production Inspection Primary Inspection Agencies (IPIAs) and Design Approval Primary Inspection Agencies (DAPIAs) in order to comply with the Manufactured Housing Construction and Safety Standards and Regulations. This is in addition to $10 million HUD estimates would be collected in label fees if the fee is increased to $100 per label. While the label fee is an important component of the HUD program, the commenter stated that HUD should consider the overall cost of regulation that is passed to the consumer and the impact on the affordability of manufactured housing prior to establishing a new label fee.

Response: HUD is cognizant of the fees paid to IPIAs and DAPIAs by manufactured housing manufacturers for design reviews and inspections. However, these fees are a cost of doing business, established by contract or other agreement as agreed upon between the manufacturer and the primary inspection agency or, in the case of a state acting as an exclusive IPIA, by the state. The manufactured housing program fee, on the other hand, represents the fee necessary to offset HUD's expenses in connection with carrying out its responsibilities under the Act.

Comment: One commenter recommended, given the magnitude of the increase of the proposed fee, that it be phased in over several years.

Response: Phasing in the increase over several years is not contemplated by the Act which provides that the amount of the fee may only be modified ''as specifically authorized in advance of *an annual* appropriation.'' (Emphasis added). In addition, phasing in the increase would be difficult to administer and, more importantly, would not provide the funding required by HUD to meet the program's operating expenses for the balance of FY 2014 and FY 2015.

Comment: A commenter stated that manufacture home production has been slowly increasing from 50,000 homes in 2010 to just over 60,000 in 2013, and that the proposed label fee increase does not consider likely production increases. According to the commenter, while HUD supervision goes up as production rises, the relationship is not linear and that if the fee becomes fixed at $95 to $105, a strong recovery by the industry could result in a windfall for HUD that has not been justified in the proposal.

Response: In estimating the amount of the fee, HUD included a 5 percent per year production increase based on historic data. However, if there is an unpredicted increase in production, HUD would consider reducing the label fee.

Comment: A commenter stated that HUD reported in its FY 2012 Congressional Budget Justifications that the responsibilities of its manufactured housing program have remained unchanged. The commenter questioned why the decline in industry production has not resulted in reduced program responsibilities and lower program expenses. The commenter questioned whether the increase in program expenditures might result from factors other than those which justify an increased label fee and must be addressed and corrected by the program going forward.

Response: As discussed in response to a previous comment, program operating expenses do not have a direct correlation to production levels since monitoring is an ongoing expense. Moreover, the Manufactured Housing Improvement Act of 2000 increased HUD's responsibilities to carry out the requirements of the Act. For example, it established the MHCC and requires that HUD contract with an Administering Organization, hold regular MHCC and subcommittee meetings, and update the standards on a 2-year cycle. In addition, the Manufactured Housing Improvement Act of 2000 requires that HUD establish and revise model installation standards, implement an installation program in states without this program; and approve installation programs in the states that adopted installation standards based on the federal model installation standards and HUD's requirements for an approved installation program. HUD's responsibilities will be increasing as implementation of an installation program in the states without this program will be completed in FY 2015. Finally, HUD was required to establish a model dispute resolution program, administer the program in states that have not adopted such a program, and approve state dispute resolution programs based on the requirements established by HUD for such programs. HUD is also planning to obtain a contractor to fully implement a dispute resolution program in states that did not adopt such a program in FY 2015.

Comment: A commenter stated, based on its review, that HUD's payments to the program's monitoring contractor have remained constant or increased even as production levels have decreased. According to the commenter, these sustained and increased contractor funding levels, during a period of decline in industry production and a falling number of consumer complaints and referrals to the federal dispute resolution system, is attributable to a major expansion of in-plant regulation with significant ''make-work'' activities for the program contractor and should be eliminated. According to the commenter, eliminating these unnecessary functions would realize significant cost savings that could be used to fund the functions and operations of the SAAs and properly fund the responsibilities of the Secretary.

Response: HUD's overall monitoring costs have remained constant or gradually increased over the last few years due to inflation and efforts to enhance quality and reduce non-conformances and the number of consumer complaints. The improvements in overall home quality and reduced levels of consumer complaints are not ''make-work'' activities as suggested by the commenter. Rather, they are the direct result of the focus of HUD's cooperative monitoring activities and training over the past four years with manufacturers and their inspection agencies to improve overall construction quality. The goals of such monitoring are to reduce the number of consumer complaints and service calls for manufacturers, and enhance the manufacturer's quality assurance programs. While HUD believes that such goals are being achieved, without a similar level of monitoring, these improvements may not be sustained. For these reasons, HUD will be conducting oversight and evaluation of its inspection agencies performance to determine if the improvements put in place over the past four years are being

sustained. HUD will consider future reductions in its in-plant monitoring if the results warrant changes in the level of current monitoring activities and may use the savings to fund SAA operations as discussed elsewhere in HUD's responses to the comments.

Comment: The second commenter echoed these concerns stating that the amount paid to the monitoring contractor has increased to $5 million in 2013 from $3.2 million in 2011. According to the commenter, the costs for the monitoring contractor should be going down, not up. The commenter stated that while ensuring quality assurance in plants has been generally successful, it has also resulted in reduced service calls, fewer consumer complaints, and higher quality homes. According to the commenter, it is logical to conclude that the need for time consuming and costly audits should be reduced.

Response: HUD agrees with the commenter that quality assurance monitoring has generally been successful. However, this shift in monitoring has been instituted using a training approach at manufacturer facilities over a period of 4 years. While the process appears successful in reducing the number of consumer complaints, the process is more time consuming for auditors and therefore, more expensive. As stated in a prior response, HUD believes that without continuing this level of monitoring, these improvements may not be sustained.

Comment: A commenter stated that last year annual audits in each plant lasted 3 days. According to the commenter, audits could be shortened by at least one day, saving substantial sums. The commenter also stated cost savings could be realized if audits were conducted with regional planning in mind, so that auditors could visit plants within the same region and save money on air fare. The commenter also stated that the same logic holds for HUD's oversight of the Primary Inspection Agencies and that over time, monitoring and review of the activities of DAPIAs and IPIAs should improve performance and reduce the need for monitoring.

Response: HUD's current 3-day audit approach is required to conduct an overall and thorough evaluation and quality audit of each inspection agency's performance in each factory. In scheduling audits, HUD travel costs and locations are considered as factors in current contract administration. As previously indicated, HUD agrees that over time, its current monitoring activities could be reduced if supported by inspection agency performance in sustaining improvements in their oversight of manufacturers and their quality assurance programs and reductions in non-conformances and by declines in the levels of consumer complaints.

Comment: A commenter stated that HUD could reduce its cost estimates for regulation and enforcement of installation programs in each of the 15 states that do not have their own approved program by partnering with the industry. Specifically, the commenter recommended that HUD partner with the Manufactured Housing Educational Institute which has an effective training program that has been used since 2006 in over 15 states for installers. The commenter also recommended that HUD consider collecting license and inspection fees from installers as an alternative to label fees for activities related to administering installation programs in the 15 default states.

Response: HUD is currently planning to contract with qualified entities to perform this function and will be looking to use resources currently in place. HUD will also examine the viability of collecting license and inspection fees from installers in the future.

Comment: A commenter stated that HUD's expansion of in-plant monitoring from contractor scrutiny of the home to assess the IPIA to contractor inspections and analyses of the manufacturer's quality assurance systems should have been first considered by the MHCC for prior review and comment and should be eliminated.

Response: HUD's emphasis over the past years on examining the quality assurance programs of the manufacturers and the third party agencies inspection of these programs is consistent with the Program's overall monitoring policies and the Program's regulations. The purpose of this education and monitoring approach has been to assure compliance with the Federal standards and to reduce consumer complaints. HUD does not believe that it requires prior review by the MHCC to implement current modified monitoring procedures which are part of HUD's responsibilities under the Act.

Comment: The commenter, citing data from HUD's Congressional Budget Justifications since 2005, stated that payments to SAAs have decreased. According to the commenter, with a substantial number of states facing critical difficulties providing funding for SAA operations, it is essential that additional HUD funding of SAAs be provided. The commenter recommended that any additional program revenues resulting from HUD's proposed fee increase be utilized to increase payments to the SAAs, and thereby preserve the federal-state partnership that is the bedrock of the manufactured housing program.

Response: SAA funding has not decreased. In fact, SAAs that were fully approved as of December 27, 2000, receive funding at the same production levels and siting as in 2000. HUD will consider future modifications to the current fee distribution formula to ensure states are provided with adequate funding to perform the required SAA functions.

Comment: The second commenter also stated that it has serious concerns that the fees paid to SAAs are not reflective of current production and shipment levels and that HUD should adjust its budget and consider a fee increase based on more realistic payments to SAAs. The commenter also stated that a flaw in the federal law mandates that fees be based on shipment and production levels in effect in the year 2000 but that production and shipments levels have declined significantly during the last 14 years. Some states have increased production and shipments since 2000 yet they continue to receive payments based on lower production levels in 2000. Most states, however, have shipments and production levels substantially lower than they were in 2000, yet these states continue to receive payments at the higher rate calculated according to production and shipments in 2000.

Response: HUD will review the basis supporting the amount of fees paid to SAAs and the adequacy of funding to the approved SAAs.

Comment: One commenter recommended that HUD consider withdrawing the proposed rule and develop a formula for establishing fees based on production. According to the commenter, the fee could be raised or lowered depending on the annual number of homes produced, perhaps over a two year cycle.

Response: HUD does not have the legal authority to develop a formula to establish fees based on production. As already noted, the Act provides that the amount of the fee may only be modified ''as specifically authorized in advance of an annual appropriation'' and is tied, therefore to annual appropriations. As also discussed, the establishment of an appropriate fee also needs to take into consideration several factors, including but not limited to production levels, such as ongoing program operating expenses. HUD is moving forward with this rule since the fee increase is

required for HUD to carry out the Program's basic responsibilities under the Act.

Comment: Both commenters objected to a comment made in HUD's FY 2015 Congressional Justification that it is seeking authority to allow future fee modification to be implemented via notice, rather than rulemaking. One commenter stated that such authority would further erode the goal of the Manufactured Housing Improvement Act of 2000 to ensure accountability and transparency in the fee adjustment process, including a full opportunity for all stakeholders to participate in that process through the informal rulemaking requirements of the Administrative Procedure Act. The commenter also stated that the history of HUD's modifications to the program fee, and specifically the fact that HUD has not changed the fee since 2002, does not support the basis HUD identifies for such a provision; specifically, the need for HUD to make timely adjustments to the fee. The second commenter stated it is essential for the MHCC to review and comment on future fee increases and that it believes that HUD has the ability to expedite rulemaking if needed. Both commenters recommended that HUD discontinue efforts to seek this authority.

Response: HUD appreciates the opportunity to clarify its position regarding seeking authority to modify the fee by notice. Based on the comments received, HUD has not decided whether to pursue efforts to seek the legal authority to modify the manufactured housing program fee by notice. Nevertheless, should HUD pursue such authority it has been and continues to be HUD's position that modifying the fee would require publishing a notice in the **Federal Register** announcing the proposed fee and providing a 30-day public comment period for the purpose of inviting comment. After consideration of the public comments received on the proposal, HUD would publish a final notice in the **Federal Register** announcing the modified fee, any other necessary information regarding payment of the fee, and provide at least a 30-day delayed effective date. In addition, prior to implementing this change, HUD would be required to publish a final rule revising § 3284.5 to accommodate the authority to revise the fee by notice. HUD notes that such a procedure could be used to both increase and decrease the fee. Nevertheless, HUD believes that such a procedure is consistent with section 620 of the Act and, notwithstanding the description in HUD's Congressional Justification, is rulemaking under section 553 of the Administrative Procedure Act (5 U.S.C. 553). As stated, however, HUD has not decided whether to pursue this authority.

III. This Final Rule

This final rule raises the amount of the fee to $100 per transportable unit. When HUD last modified the amount of the fee per transportable section in 2002 (67 FR 52832, August 13, 2002), HUD divided the annual projected number of manufactured housing transportable units (350,000) into the amount appropriated by Congress for the manufactured housing program for the fiscal year. (See 67 FR at 52832.) As described in the May 2, 2014, proposed rule, HUD believes that a similar formula should form the basis of this revised fee. This approach is also consistent with the method and formula used to determine the monitoring inspection fee in § 3282.307(e). In this regard, HUD has determined, based on the current projected production levels, that the number of manufactured housing transportable units will be approximately 100,000 sections. This is the average of the range of production levels discussed in the proposed rule. Additionally, as stated in HUD's 2015 budget justification, HUD has estimated that, at current production levels, approximately $10 million annually is required to administer the Manufactured Housing Program in a manner that fulfills HUD's statutory oversight responsibilities. This is consistent with HUD's budget requests for FY 2015 which stated that HUD would through rulemaking increase the fee to an amount of up to $100 per label.

HUD recognizes that the Federal government is nearly through FY 2014, and that application of a new fee may only apply to a limited portion of FY 2014, or may not be feasible until FY 2015. Nevertheless, the fee is important to sustain the program. The increase in fee implemented in this rule is one that HUD believes is appropriate for succeeding fiscal years barring subsequent appropriations that require further changes.

IV. Findings and Certifications

Impact on Small Entities

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. As discussed in the May 2, 2014, proposed rule, this final rule would not have a total economic impact of more than $6.1 million, which the maximum additional amount of fees that HUD has determined would be collected if the fee is raised to $100 per label.

By annual appropriations acts, Congress requires HUD to collect fees from manufacturers of manufactured housing to ensure the annual appropriation that HUD provides in a given fiscal year. In addition to the authority to set label fees, the reports accompanying HUD's recent annual appropriations acts reflect strong Congressional encouragement for HUD to respond to the annual appropriations act authority to modify the label fees to obtain additional funding to support the manufactured housing program. The per-unit fee would remain as has always been the case to be proportional in its impact, with greater collections from larger manufacturers and less collections from smaller manufacturers.

HUD has concluded, generally, that, as is often the case with increased fees placed on manufacturers of products used by consumers, the fee increase will be passed through to consumers, thereby minimizing the impact on manufacturers large and small. If the cost of the fee is passed on to the consumer, the purchase price of a manufactured home would increase, and placements of new manufactured homes would decrease slightly below currently forecasted levels. If manufacturers absorb the cost, however, the effect of the increase would result in lower profits for the manufacturers and sales would remain unchanged. In either scenario, this change in fee collections would represent a transfer to tax payers from manufacturers of manufactured housing or consumers purchasing new manufactured housing, since the increased fee collections will replace funds collected through federal tax collections.

For these reasons, HUD submits that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This final rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of the UMRA.

Environmental Impact

This final rule involves a rate or cost determination and a related fiscal requirement that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Federalism Impact

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

List of Subjects in 24 CFR Part 3284

Consumer protection, Manufactured homes.

Accordingly, for the reasons discussed in this preamble, HUD amends 24 CFR part 3284 as follows:

PART 3284—MANUFACTURED HOUSING PROGRAM FEE

■ 1. The authority citation for 24 CFR part 3284 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 5419, and 5424.

■ 2. Revise § 3284.5 to read as follows:

§ 3284.5 Amount of fee.

Each manufacturer, as defined in § 3282.7 of this chapter, must pay a fee of $100 per transportable section of each manufactured housing unit that it manufactures under the requirements of part 3280 of this chapter.

Dated: August 8, 2014.

Carol J. Galante,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2014–19173 Filed 8–12–14; 8:45 am]

BILLING CODE 4210–67–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2013–0046; FRL–9913–15–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Amendments to Vehicle Inspection and Maintenance Program for Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Illinois Environmental Protection Agency on November 29, 2012, concerning the state's vehicle inspection and maintenance (I/M) program in the Chicago and Metro-East St. Louis ozone nonattainment areas in Illinois. The revision amends I/M program requirements in the active control measures portion of the ozone SIP to reflect changes that have been implemented at the state level since EPA fully approved the I/M program on February 22, 1999. The submittal also includes a demonstration under section 110(l) of the Clean Air Act (CAA) addressing lost emission reductions associated with the program changes.

DATES: This final rule is effective on September 12, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2013–0046. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Francisco J. Acevedo, Mobile Source Program Manager, at (312) 886–6061, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061, *acevedo.francisco@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. What is being addressed by this document?
II. What is our response to comments received on the notice of proposed rulemaking?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. What is being addressed by this document?

On November 14, 2013, at 78 FR 68378, EPA proposed to approve into the state's Federally-approved SIP several regulatory changes to the previously approved I/M program operating in the Chicago and Metro-East St. Louis ozone nonattainment areas in Illinois. The most significant changes to the Illinois I/M program took effect beginning on February 1, 2007 and include:

- The elimination of the IM240 transient mode exhaust test for all vehicles beginning February 1, 2007.
- The elimination of the evaporative system integrity (gas cap pressure) test for all on-board diagnostics (OBD) compliant vehicles beginning February 1, 2007.
- The replacement of the computer-matching enforcement mechanism with a registration denial based system beginning January 1, 2008.
- The elimination of the steady-state idle exhaust and evaporative integrity (gas cap pressure) testing for all vehicles beginning February 1, 2012.
- The exemption of pre-2007 model year (MY) heavy-duty vehicles (HDVs) with gross vehicle weight rating (GVWR) between 8,501 and 14,000 pounds beginning February 1, 2012.
- The exemption of all HDVs with a GVWR greater than 14,000 pounds as of February 1, 2012.
- The requirement of OBD pass/fail testing for all 2007 and newer OBD-compliant HDVs.

In addition to the changes discussed above, the November 29, 2012, submittal included a number of minor revisions to the program that do not have a significant impact on overall program operations or the emissions reductions associated with it. A full list of the regulatory changes submitted by Illinois for EPA approval includes:

- VEIL of 2005, as amended, 625 ILCS 5/13C (Public Act 94–526 enacted on

August 10, 2005; Public Act 94–848 enacted on June 9, 2006; Public Act 97–106, enacted on July 14, 2011).

• Revisions to 35 Ill. Adm. Code 240 (R11–19 effective March 18, 2011 (35 Ill. Reg. 5552 (April 1, 2011)); R12–12 effective February 1, 2012 (36 Ill. Reg. 1066 (January 27, 2012)).

• Revisions to 35 Ill. Adm. Code 276 effective June 28, 2011 (35 Ill. Reg. 11268) and January 30, 2012 (36 Ill. Reg. 2257).

II. What is our response to comments received on the notice of proposed rulemaking?

The November 14, 2013, proposal provided a 30-day review and comment period. The comment period closed on December 16, 2013. EPA received comments from two parties during the public comment period. One was supportive of our proposed action. We are responding to the second commenter who disagreed with our action.

Comment. The commenter notes that the primary concern with EPA's proposed approval of Illinois' SIP revision is ensuring it is not counter-productive to compliance of the National Ambient Air Quality Standards (NAAQS). The commenter states that compliance with these standards should be a prerequisite for considering such revisions to ensure timely attainment of all applicable NAAQS. The commenter further claims that the SIP revision would limit Illinois' ability to reduce its precursor emissions, interfere with attainment of multiple NAAQS, and place additional burden on neighboring states.

Response. States have primary responsibility for deciding how to attain and maintain the NAAQS. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet minimum criteria set by the CAA or any applicable EPA regulations. To ensure that impacts on the NAAQS are considered, any change submitted to EPA for approval must include a demonstration of non-interference with the NAAQS, pursuant to section 110(l) of the CAA. In the absence of an attainment demonstration, to demonstrate non-interference with any applicable NAAQS or requirement of the CAA under section 110(l), EPA's policy is that states may substitute equivalent emissions reductions to compensate for any change to a SIP approved program, to ensure that actual emissions in the air are not increased. Allowing states to use substitute equivalent emissions to address section 110(l) provides states with flexibility, while not interfering with attainment or maintenance of the NAAQS. The compensating equivalent reductions must represent permanent emissions reductions achieved in a contemporaneous time frame to the change of the existing SIP control measure, in order to ensure that there is no degradation of air quality.

As outlined in EPA's proposed approval, Illinois' SIP revision includes such a demonstration using equivalent emissions reductions achieved through the shutdown of permitted emission sources to compensate for emission reduction losses resulting from changes to the I/M program that was approved into the SIP in 1999 (64 FR 8517 (Feb. 22, 1999). In the Chicago nonattainment area, Illinois identified 1,168 facilities with permitted volatile organic compound (VOC) emissions and 687 facilities with permitted nitrogen oxides (NO_X) emissions that have permanently closed and have expired permits that have been revoked.

In the Metro-East St. Louis nonattainment area, Illinois identified 82 facilities with permitted VOC emissions and 39 facilities with permitted NO_X emissions that have permanently closed and have expired permits that have been revoked. These sources all ceased operations within the same timeframe of Illinois implementing the revisions to the I/M program. At this point, these sources have all been shutdown for at least two years.

EPA has a well-established policy that reactivation of a permanently shutdown facility will be treated as operation of a new source for purposes of Prevention of Significant Deterioration (PSD) review. *See In the Matter of Monroe Electric Generating Plant, Entergy Louisiana, Inc. Proposed Operating Permit, Petition No. 6–99–2, Order Partially Granting and Partially Denying Petition for Objection to Permit* (June 11, 1999) at p.8 & n.9 (citing authorities). In general, whether a shutdown is treated as permanent depends on the facts and circumstances, although shutdowns of more than two years or that result in removal of a source from the state's emissions inventory are presumed to be permanent.

EPA has determined, for the sources identified in the record as part of Illinois' submission, that these sources are permanently shutdown for purposes of PSD. Any restart of operations, and associated emissions, at these sites will be treated as a new sources, subject to the requirements of the PSD program. In addition, the state's 110(l) demonstration indicates that the reductions achieved by the source shutdowns occurred during the same timeframe as the increased emissions from the modified I/M program. As a result, EPA believes it is reasonable for Illinois to use the reductions in actual emissions of ozone precursors resulting from the shutdown of these sources as offsets for any increases in emissions of ozone precursors associated with the changes to the I/M program.

A review of Illinois' 110(l) demonstration shows that the emissions reductions of both VOC and NO_X emissions far exceed the increase in emissions resulting from the revised I/M program. EPA finds that the net result of these changes will not interfere with attainment and maintenance of the ozone, or other, NAAQS.

Comment. The same commenter also included an analysis that it claims demonstrates that the changes to the Illinois I/M program resulted in an increase in precursor emissions for ozone. The commenter further states that the increase in emissions resulting from the Illinois I/M program changes alone (or largely) was responsible for the monitored violation of the 2008 ozone standard at the Zion, IL monitor. The commenter points to a photochemical modeling analysis conducted by the commenter, showing that the decreased effectiveness in the emission reduction potential of the Illinois I/M program equates to an increase in ozone concentrations. The commenter argues that because the State has been implementing the modified program since 2007, any analysis should not be based solely on emissions modeling or speculative results, but supported by actual monitoring data that demonstrates compliance with the applicable air quality standards as well. The commenter points to multiple monitored violations of the standard that have occurred in Illinois subsequent to these I/M program changes, and claims that such monitored violations provide strong indication that the current controls and current approved SIP are inadequate to support attainment of the 2008 ozone standard and are also insufficient to support attainment of the 2012 standard for fine particles as well.

Response. The commenter's photochemical modeling analysis referenced above only reflects the impacts of the changes made to the Illinois I/M program. The analysis however fails to take into consideration the emissions reductions achieved through the shutdown of permitted emission sources that Illinois relies on to compensate for the emission reduction losses resulting from changes to the February 22, 1999, SIP approved I/M program. When the compensating emission reductions being used by

Illinois to address 110(l) are taken into account in the commenter's analysis, the direct link between the violating monitoring data and the I/M program changes claimed by the commenter can no longer be supported. The compensating emission reductions of both VOC and NO_X emissions far exceed the increase in emissions resulting from the revised I/M program and ensure that there is no net increase in precursor emissions resulting from the approval of the I/M program changes. EPA believes that, had the commenter modeled the ozone impact of the combined increased emissions from the I/M revision and the decrease in emissions from the offsetting emission reductions, the commenter would have modeled a net decrease in peak downwind ozone concentrations. In addition, Illinois' analysis also shows that the emission reduction losses resulting from the changes to the I/M program continue to significantly decline through 2025 while the compensating emission reductions being relied on during the same time period do not. The commenter's claims that Illinois' current control measures and current approved SIP are inadequate to support attainment of the 2008 ozone and 2012 fine particle standards are outside the scope of this action. As stated before, any SIP revision submitted to EPA for consideration needs to include a demonstration of non-interference with the NAAQS under section 110(l) of the CAA to ensure that impacts on the NAAQS are considered. Illinois' SIP revision included such a demonstration and EPA has determined that Illinois' use of substitute emission reductions does not affect timely attainment of all applicable NAAQS.

III. What action is EPA taking?

EPA is approving the revisions to the Illinois ozone SIP submitted on November 29, 2012, concerning the I/M program in Illinois. EPA finds that the revisions meet all applicable requirements and will not interfere with reasonable further progress or attainment of any of the national ambient air quality standards.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 14, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: June 23, 2014.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.720 is amended by adding paragraph (c)(200) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(200) On November 29, 2012, the Illinois Environmental Protection Agency submitted a request to revise Illinois' vehicle inspection and maintenance (I/M) program to reflect changes that have been made to the program since EPA fully approved the I/M program on February 22, 1999.

(i) Incorporation by reference.

(A) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter k: Emission Standards and Limitations for Mobile Sources, Part 240 Mobile Sources. Effective February 1, 2012.

(B) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter II:

Environmental Protection Agency, Part 276 Procedures to be Followed in the Performance of Inspections of Motor Vehicle Emissions. Effective January 30, 2012.

(ii) Other materials.

(A) Transmittal letter dated November 29, 2012.

(B) Vehicle Emissions Inspection Law of 2005, as amended, 625 ILCS 5/13C (Public Act 94–526 enacted on August 10, 2005; Public Act 94–848 enacted on June 9, 2006; Public Act 97–106, enacted on July 14, 2011).

(C) Listing of Chicago and Metro-East St. Louis NAA Facility Closures (July 2012).

[FR Doc. 2014–17331 Filed 8–12–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 14–37; RM–11711; DA 14–1059]

Radio Broadcasting Services; Haynesville, Louisiana

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of SSR Communications, Inc., allots Channel 286A at Haynesville, Louisiana, as a ''backfill'' allotment to prevent the removal of the community's potential first local service that accommodates the ''hybrid'' application for Station KIMW, Channel 288A from Haynesville, Louisiana, to Heflin, Louisiana. A staff engineering analysis indicates that Channel 286A can be allotted to Haynesville consistent with the minimum distance separation requirements of the Commission's rules with a site restriction 4.6 kilometers (2.9 miles) south of the community. The reference coordinates are 33–00–12 NL and 93–08–19 WL.

DATES: Effective September 8, 2014.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* adopted July 24, 2014, and released July 25, 2014. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or via email *www.BCPIWEB.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 288A at Haynesville, and by adding Channel 286A at Haynesville.

[FR Doc. 2014–19162 Filed 8–12–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 14–1060]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division amends the FM Table of Allotments (''FM Table'') to remove certain vacant FM allotments that were auctioned in FM Auction 79 that are currently considered authorized stations. FM assignments for authorized stations and reserved facilities will be reflected solely in Media Bureau's Consolidated Database System (CDBS).

DATES: Effective August 13, 2014.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* DA 14–1060, adopted July 24, 2014, and released July 25, 2014. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 12th Street SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20054, telephone 1–800–378–3160 or *www.BCPIWEB.com.* The Commission will not send a copy of this *Report and Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCASTING SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

■ 2. Amend § 73.202(b) Table of FM Allotments as follows:

■ a. Remove Boligee, under Alabama, Channel 297A; and Maplesville, Channel 292A.

■ b. Remove Grand Canyon Village, under Arizona, Channel 273C1; and Channel 268C3 at Peach Springs.

■ c. Remove Sparkman, under Arkansas, Channel 259A.
■ d. Remove Channel 237A, under California, at Amboy; Big Sur, Channel 240A; Buttonwillow, Channel 265A; Channel 287A at Cambria; Kernville, Channel 289A; Lamont, Channel 247A; Channel 252A at Ridgecrest; and Susanville, Channel 264A.
■ e. Remove Crawford, under Colorado, Channel 274C3; and Genoa, Channel 291C3.
■ f. Remove Eastpoint, under Florida, Channel 283A; Jasper, Channel 298A; Okeechobee, Channel 291A; Palm Coast, Channel 254A; and Port St. Joe, Channel 270C3.
■ g. Remove Crawfordville, under Georgia, Channel 234A; Dexter, Channel 276A; and Tallapoosa, Channel 255A.
■ h. Remove Channel 293C3, under Idaho, at McCall.
■ i. Remove Lake Providence, under Louisiana, Channel 224A; Oak Grove, Channel 289A; and Opelousas, Channel 279A.
■ j. Remove McBain, under Michigan, Channel 300A.
■ k. Remove Walnut Grove, under Mississippi, Channel 244C2.
■ l. Remove Moberly, under Missouri, Channel 223A.
■ m. Remove Roundup, under Montana, Channel 248A.
■ n. Remove Arthur, under Nebraska, Channel 300C1; and Hartington, Channel 232C2.
■ o. Remove Grants, under New Mexico, Channel 244C3; Milan, Channel 270A; and Channel 228A at Taos.
■ p. Remove Indian Lake, under New York, Channel 290A.
■ q. Remove McConnelsville, under Ohio, Channel 279A.
■ r. Remove Haileyville, under Oklahoma, Channel 290A; Hollis, Channel 274C2; Kiowa, Channel 254A; Channel 300C2 at Mooreland; Stuart, Channel 228A; and Wapanucka, Channel 298A.
■ s. Remove Quinby, under South Carolina, Channel 237A.
■ t. Remove Sisseton, under South Dakota, Channel 258C2.
■ u. Remove Lynchburg, under Tennessee, Channel 230A.
■ v. Remove Buffalo Gap, under Texas, Channel 227A; Channing, Channel 284C; Detroit, Channel 282C2; Floydada, Channel 255A; Channel 250A at George West; Goliad, Channel 282A; Hooks, Channel 231A; Channel 292A at Junction; La Pryor, Channel 278A; Ozona, Channel 289C1; Pampa, Channel 277C2; Rankin, Channel 229C3; Channel 235C3 at Rocksprings; San Diego, Channel 273A; San Isidro, Channel 247A; Channel 254A at Spur; and Westbrook, Channel 272A.
■ w. Remove Salina, under Utah, Channel 239C.
■ x. Remove Belle Haven, under Virginia, Channel 252A and Lynchburg, Channel 229A.
■ y. Remove Channel 257A, under Virgin Islands, at Charlotte Amalie and Frederiksted, Channel 258A.
■ z. Remove Union Gap, under Washington, Channel 285A.
■ aa. Remove Pine Bluffs, under Wyoming, Channel 238C3.

[FR Doc. 2014–19160 Filed 8–12–14; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 140115049–4528–02]

RIN 0648–XD423

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS is transferring 15 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the Reserve category to the Harpoon category for the remainder of the 2014 fishing year. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments, and applies to Atlantic tunas Harpoon category (commercial) permitted vessels.

DATES: Effective August 8, 2014, through November 15, 2014.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and in accordance with implementing regulations. NMFS is required under ATCA to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The 2010 ICCAT recommendation regarding western BFT management resulted in baseline U.S. quotas for 2011 and for 2012 of 923.7 mt (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). The 2011 BFT quota rule (76 FR 39019, July 5, 2011) implemented the base quota of 36 mt for the Harpoon category fishery and 23.1 mt for the Reserve category. As published in the final 2014 BFT quota specifications (79 FR 38255, July 7, 2014), the baseline Harpoon category and Reserve category quotas as codified have not been modified.

The 2014 Harpoon category fishery is open until November 15, 2014, or until the Harpoon category quota is reached, whichever comes first.

Inseason Transfer to the Harpoon Category

Under § 635.27(a)(7), NMFS has the authority to allocate any portion of the Reserve category to any other category, other than the Angling category school BFT subquota (for which there is a separate reserve), after considering determination criteria provided under § 635.27(a)(8), which include: The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; the estimated amounts by which quotas for other gear categories of the fishery might be exceeded; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; and a review of dealer reports, daily landing trends, and the availability of BFT on the fishing grounds.

NMFS has considered the determination criteria regarding inseason adjustments and their applicability to the Harpoon category fishery for the remainder of the 2014 fishing year. These considerations include, but are not limited to, the following: Biological samples collected from BFT landed by Harpoon category fishermen and provided by BFT dealers continue to provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Continued BFT landings would support the collection of a broad range of data for these studies and for stock monitoring purposes. As of August 4, 2014, the Harpoon category has landed 29.7 mt, with 6.3 mt available for the remainder of the season, and NMFS anticipates the available quota will be met by mid-August, depending on weather conditions and fish availability. Without a quota transfer at this time, Harpoon category participants would have to stop BFT fishing activities once the base quota is met, while commercial-sized BFT remain available in the areas Harpoon category permitted vessels operate. NMFS anticipates that the Harpoon category could harvest the transferred 15 mt prior to the end of the Harpoon category season, subject to weather conditions and BFT availability. As this action would be taken consistent with the quotas previously established and analyzed in the 2011 BFT quota final rule (76 FR 39019, July 5, 2011), and consistent with objectives of the 2006 Consolidated HMS FMP, it is not expected to negatively impact stock health. A principal consideration is the objective of providing opportunities to harvest the full 2014 U.S. BFT quota without exceeding it based upon the 2006 Consolidated HMS FMP goal: ''Consistent with other objectives of this FMP, to manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation, particularly with respect to food production, providing recreational opportunities, preserving traditional fisheries, and taking into account the protection of marine ecosystems.''

Based on all of these considerations, as well as the available quota, NMFS has determined that 15 mt of the 23.1-mt Reserve category quota should be transferred to the Harpoon category. The transfer would provide a reasonable opportunity to harvest the U.S. quota of BFT, without exceeding it, while maintaining an equitable distribution of fishing opportunities; help achieve optimum yield in the BFT fishery; allow the collection of a broad range of data for stock monitoring purposes; and be consistent with the objectives of the 2006 Consolidated HMS FMP. Therefore, NMFS adjusts the Harpoon category quota to 51 mt for the 2014 fishing year. The Harpoon category will be closed for 2014 when the adjusted Harpoon category quota has been reached, or November 15, 2014, whichever comes first.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely through the mandatory dealer landing reports, which NMFS requires to be submitted within 24 hours of a dealer receiving BFT. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional action is necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. Subsequent actions, if any, will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872–8862 or (978) 281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP provide for inseason adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Affording prior notice and opportunity for public comment to implement the quota transfer for the remainder of 2014 is impracticable and contrary to the public interest as such a delay would likely result in closure of the Harpoon fishery when the base quota is met and the need to re-open the fishery, with attendant administrative costs and costs to the fishery. The delay would preclude the fishery from harvesting BFT that are available on the fishing grounds and that might otherwise become unavailable during a delay. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.27(a)(7) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: August 7, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–19106 Filed 8–8–14; 11:15 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 156
Wednesday, August 13, 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 AGRICULTURE

Rural Housing Service

7 CFR Part 3560

RIN 0575–AA99

Reserve Account

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Through this action, the Rural Housing Service (RHS) is proposing to amend its regulation to change the requirements of the Reserve Account for the Section 515 Rural Rental Housing (RRH) program. The intended effect of this action is to address the reserve account requirement of an Agency countersignature with the borrower when a Section 538 guaranteed loan is involved, and to also clarify that reserve account funds cannot be used to pay for fees associated with the Section 538 guaranteed loan program.

DATES: Written or email comments must be received on or before October 14, 2014.

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

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or another mail courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Suite 701, Washington, DC 20024.

All written comments will be available for public inspection during regular hours at the 300 7th Street SW., address listed above.

FOR FURTHER INFORMATION CONTACT: Tammy S. Daniels, Financial and Loan Analyst, Multi-Family Housing Guaranteed Loan Division, Rural Housing Service, U.S. Department of Agriculture, STOP 0781, 1400 Independence Avenue SW., Washington, DC 20250–0781, Telephone: (202) 720–0021 (this is not a toll-free number); email: *tammy.daniels@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866—Classification

This proposed rule has been determined to be not significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

This proposed rule has been reviewed under E.O. 12988, Civil Justice Reform. If this proposed rule is adopted: (1) Unless otherwise specifically provided, all State and local laws that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit.

Executive Order 13132—Federalism

The policies contained in this proposed rule do not have any substantial direct effect on States, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with states is not required.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that the final rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. If a tribe determines that this rule has implications of which Rural Development is not aware and would like to engage with Rural Development on this rule, please contact Rural Development's Native American Coordinator at *AIAN@wdc.usda.gov.*

Regulatory Flexibility Act

The proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature on this document that this rule will not have a significant economic impact on a substantial number of small entities. This rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Paperwork Reduction Act

There are no new reporting and recordkeeping requirements associated with this proposed rule.

E-Government Act Compliance

RHS is committed to complying with the E-Government Act by promoting the use of the Internet and other information technologies in order to provide increased opportunities for citizen access to Government information, services, and other purposes.

Unfunded Mandate Reform Act (UMRA)

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' RHS determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the environment. Therefore in accordance with the National Environmental Policy Act of 1969,

Public Law 91–190, an Environmental Impact Statement is not required.

Programs Affected

The programs affected by this regulation are listed in the Catalog of Federal Domestic Assistance under numbers 10.405—Farm Labor Housing Loans and Grants; 10.415—Rural Rental Housing Loans; and 10.427—Rural Rental Assistance Payments.

Executive Order 12372—Intergovernmental Consultation

These loans are subject to the provisions of E.O. 12372, which require intergovernmental consultation with state and local officials. RHS conducts intergovernmental consultations for each loan in a manner delineated in RD Instruction 1940–J, (available in any Rural Development office and on the Internet at *http://www.rurdev.usda.gov/SupportDocuments/1940j.pdf*) and 7 CFR part 3015, subpart V.

Background Information:

Reserve accounts are established by the recipient of Section 515 Rural Rental Housing loans (the ''borrower'') to meet the major capital expenses of a housing project. The amount of the payments to the reserve account is established in the loan documents, beginning with the first loan payment or the date specified in the loan documents. The current requirement at 7 CFR 3560.306(e)(2) states that reserve accounts require Agency countersignature with the borrower on all withdrawals. The Section 538 Guaranteed Rural Rental Housing Program (GRRHP) often provides funding to an existing Section 515 Direct Rural Rental Housing property. Loan funds provided by the lender and guaranteed by the GRRHP are critical to the rehabilitation and preservation of older existing Section 515 properties. The GRRHP regulation at 7 CFR 3565.402(a) requires that all property reserve accounts be held by the lender, which eliminates the unauthorized use of these funds by the borrower since the borrower does not have access to the funds. When an approved Section 538 lender lends funds to an existing Section 515 financed property, this brings 7 CFR 3560.306 and 3565.402 into conflict, pitting the requirement for the Agency to countersignature for funds pursuant to § 3560.306, against the requirement that lenders have unfettered control of funds pursuant to § 3565.402. GRRHP loan guarantees are sold on the secondary market as long as the loan is closed and is not in default. In most cases, the Section 538 loans on Section 515 financed properties are transferred to Ginnie Mae. Ginnie Mae requires that property reserve accounts be pledged as collateral for the loan and that it has unfettered access to those accounts. In order to meet this secondary market requirement, the reserve accounts must be titled exclusively in the lender's name. In order to meet Ginnie Mae's requirements, the reserve accounts cannot be countersigned with any other party. Requiring the Agency's signature on all withdrawals ensures that the borrower does not have uncontrolled use of the funds and this requirement will remain unchanged for properties that only have Section 515 direct loans. This amendment would relieve the Agency of its countersignature responsibility for properties with Section 538 funding; the Agency's interest in the reserve accounts would still be protected by the change in the regulation, since the lender is required to get prior Agency approval before funds disbursement. Therefore, funds from the lender-controlled reserve account cannot be used for items not agreed to by the Agency.

Additionally, RHS proposes to amend 7 CFR 3560.306(g) to clarify that reserve account funds cannot be used to pay fees associated with the loan guarantee. Lenders are currently using the Replacement Reserve account to pay fees associated with the loan guarantee, i.e., the annual renewal fee. These fees are considered a project expense and must be paid from the operating account, not the replacement reserve account.

List of Subjects in 7 CFR Part 3560

Accounting, Accounting servicing, Administrative practice and procedure, Aged, Farm labor housing, Foreclosure, Grant programs—Housing and community development, Government acquired property, Government property management, Handicapped, Insurance, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing, Low and moderate income housing—Rental, Migrant labor, Mortgages, Nonprofit organizations, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Rural areas, Rural housing, Sale of Government acquired property, Surplus Government property.

Therefore, chapter XXXV, Title 7 of the Code of Federal Regulations, is proposed to be amended as follows:

PART 3560—DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for Part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

Subpart G—Financial Management

■ 2. Amend § 3560.306 by revising paragraph (e)(2) and adding paragraph (g)(5) to read as follows:

§ 3560.306 Reserve account.

* * * * *

(e) * * *

(2) Reserve accounts must be supervised accounts that require Agency countersignatures on all withdrawals; except, this requirement is not applicable when loan funds guaranteed by the Section 538 Guaranteed Rural Rental Housing Program (GRRHP) are used for the construction and/or rehabilitation of a Section 515 project. Section 515 Rural Rental Housing borrowers who are exempted from the supervised account and countersignature requirement, as described above, must follow Section 538 GRRHP regulatory requirements pertaining to reserve accounts. In all cases, Section 538 lenders must get prior written approval from the Agency before reserve account funds involving a Section 515 project can be disbursed to the borrower.

* * * * *

(g) * * *

(5) Funds from the replacement reserve account cannot be used to pay any fees associated with the Section 538 GRRHP loan guarantee, as determined by the Agency.

* * * * *

Dated: July 11, 2014.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2014–19086 Filed 8–12–14; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0524; Directorate Identifier 2014–NM–042–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. This proposed AD was

prompted by reports of corrosion in the low-rate discharge tubes of the fire protection system leading to the forward baggage compartment, and perforation of one or more tubes. This proposed AD would require repetitive checks for leakage of the discharge tubes of the fire protection system. This proposed AD also mandates eventual replacement of all existing aluminum tube assemblies with new, improved corrosion-resistant stainless steel tube assemblies. We are proposing this AD to prevent perforation of the low-rate discharge tubes, which could result in insufficient fire extinguishing agent reaching the forward baggage compartment in the event of a fire, which could result in damage to the airplane and injury to the occupants.

DATES: We must receive comments on this proposed AD by September 29, 2014.

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

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

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0524; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Fabio Buttitta, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7303; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0524; Directorate Identifier 2014–NM–042–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–06, dated January 21, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes. The MCAI states:

> Corrosion has been reported in the fire protection system low rate discharge tubes leading to the forward baggage compartment. In some cases, this has led to perforation of one or more tubes.
>
> Perforation of forward baggage compartment fire protection system tubes may result in decreased effectiveness of the fire protection system in the event of a fire in the forward baggage compartment.
>
> This [Canadian] AD mandates a repetitive integrity check of the forward baggage compartment fire protection system tube assemblies, and the replacement of aluminum forward baggage compartment fire protection tube assemblies with corrosion resistant stainless steel (CRES) tubes.

The unsafe condition is perforation of the low-rate discharge tubes, which could result in insufficient fire extinguishing agent reaching the forward baggage compartment and reduce the capability of the fire protection system to extinguish fires, possibly resulting in damage to the airplane and injury to occupants. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0524.

Relevant Service Information

Bombardier has issued Service Bulletin 84–26–15, Revision A, dated January 15, 2014. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

''Contacting the Manufacturer'' Paragraph in This Proposed AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

We have become aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance

to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this proposed AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the FAA, TCCA, or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DAO, the approval must include the DAO-authorized signature. The DAO signature indicates that the data and information contained in the document are TCCA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DAO-authorized signature approval are not TCCA-approved, unless TCCA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

We also have decided not to include a generic reference to either the ''delegated agent'' or ''design approval holder (DAH) with State of Design Authority design organization approval,'' but instead we have provided the specific delegation approval granted by the State of Design Authority for the DAH throughout this AD.

Costs of Compliance

We estimate that this proposed AD affects 82 airplanes of U.S. registry.

We also estimate that it would take about 42 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $7,852 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $936,604, or $11,422 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2014–0524; Directorate Identifier 2014–NM–042–AD.

(a) Comments Due Date

We must receive comments by September 29, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4001 through 4424 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire protection.

(e) Reason

This AD was prompted by reports of corrosion in the low-rate discharge tubes of the fire protection system leading to the forward baggage compartment, and perforation of one or more tubes. We are issuing this AD to prevent perforation of the low-rate discharge tubes, which could result in insufficient fire extinguishing agent reaching the forward baggage compartment in the event of a fire, which could result in damage to the airplane and injury to the occupants.

(f) Compliance

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

(g) Repetitive Inspections

At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD, perform an inspection (integrity check) for leakage of the fire protection tube assemblies of the forward baggage compartment, in accordance with Part A of the Accomplishment Instructions of Bombardier Service Bulletin 84–26–15, Revision A, dated January 15, 2014. If no leakage is found, repeat the inspection at intervals not to exceed 2,000 flight hours or 12 months, whichever occurs first. If any leakage is found, before further flight, do the terminating action required by paragraph (h) of this AD, except as provided by paragraph (i) of this AD.

(1) For airplanes that have accumulated 10,000 total flight hours or more, or have been in service for 60 months or more as of the effective date of this AD: Within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs first.

(2) For airplanes that have accumulated less than 10,000 total flight hours, and have

been in service for less than 60 months, as of the effective date of this AD: Before the accumulation of 12,000 total flight hours or 72 months in service, whichever occurs first.

(h) Terminating Action

At the applicable time specified in paragraph (h)(1) or (h)(2) of this AD: Replace all existing aluminum tube assemblies of the forward baggage compartment with new, improved corrosion-resistant stainless steel tube assemblies, in accordance with Part B of the Accomplishment Instructions of Bombardier Service Bulletin 84–26–15, Revision A, dated January 15, 2014, except as provided by paragraph (j) of this AD. Accomplishing this replacement terminates the repetitive inspections required by paragraph (g) of this AD.

(1) For airplanes that have accumulated 12,000 total flight hours or more, or have been in service for 72 months or more, as of the effective date of this AD: Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first.

(2) For airplanes that have accumulated less than 12,000 total flight hours, and have been in service for less than 72 months, as of the effective date of this AD: Before the accumulation of 18,000 total flight hours or 108 months in service, whichever occurs first.

(i) Alternative to Replacement for Failed Integrity Check

As an alternative to the immediate tube assembly replacement following any failed inspection (integrity check) required by paragraph (g) of this AD, the airplane may be returned to service for a maximum of 10 days, provided the conditions specified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD are met.

(1) The forward baggage compartment is empty. For ballast purposes, the use of bags (made of glass fiber or Kevlar) of sand or ingots of non-magnetic metals (such as lead) are acceptable.

(2) The flight compartment and forward baggage compartment are placarded to indicate the forward baggage compartment is inoperative.

(3) An appropriate entry in the aircraft maintenance log is made.

(j) Exception to Service Information

The electrical bonding resistance check of the high rate discharge bottle, as identified in Part B of the Accomplishment Instructions of Bombardier Service Bulletin 84–26–15, Revision A, dated January 15, 2014, is not required by this AD.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, as applicable, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–26–15, dated June 7, 2013, which is not incorporated by reference in this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the New York ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–553. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–06, dated January 21, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0524.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on July 30, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19153 Filed 8–12–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0525; Directorate Identifier 2013–NM–235–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A330–300 and A340–200 and –300 series airplanes. This proposed AD was prompted by a report of substantial inner skin disbonding damage found on a rudder. This proposed AD would require performing an inspection for damage of certain rudders, and repair if necessary. We are proposing this AD to detect and correct damage of the rudder, which could result in reduced structural integrity of the rudder.

DATES: We must receive comments on this proposed AD by September 29, 2014.

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

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

For service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0525; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0525; Directorate Identifier 2013–NM–235–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0270R1, dated November 27, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A330–300 and A340–200 and –300 series airplanes. The MCAI states:

One A310 operator found substantial inner skin disbonding damage on a rudder. The results of the subsequent investigation revealed that the most probable cause of this damage was a blunt impact with no visible damage from outside during the rudder handling. Such type of damage might grow with pressure variation during ground-air-ground cycles, and tests performed with other rudders showed a rapid propagation of damage during artificial pressure cycling.

This condition, if not detected and corrected, could affect the structural integrity of the rudder.

For the affected A310 and A300–600 aeroplanes, EASA issued AD 2013–0039 [(*http://ad.easa.europa.eu/blob/easa_ad_2013_0039.pdf/AD_2013–0039*)], to address and correct this potential unsafe condition.

As potentially affected rudders can also be installed on A330 and A340 aeroplanes, Airbus issued Alert Operator Transmission (AOT) A55L001–12 [dated December 20, 2012], pending Aircraft Maintenance Manual (AMM) 27–21–41 PB401 revision, to provide operators with updated rudder handling procedures.

EASA issued AD 2013–0270 [(*http://ad.easa.europa.eu/blob/easa_ad_2013_0270.pdf/AD_2013–0270*)], to require identification of affected rudders P/N [part number] A55471500XXX (where XXX stands for any numerical value), a one-time ultrasonic test (UT) inspection of each affected rudder to detect signs of disbonding and, depending on findings, accomplishment of applicable corrective action(s).

After [EASA] AD 2013–0270 was issued, operators commented that the batch of rudders to be inspected was not correctly defined.

For the reason described above, [EASA] AD 2013–0270 is revised to clarify that no action is required for rudders previously inspected in accordance with Airbus Service Bulletin (ASB) A330–55–3038 [dated November 7, 2007] or SB A340–55–4034 [dated November 7, 2007] [which corresponds to FAA AD 2009–10–11, Amendment 39–15907 (74 FR 23622, May 20, 2009)], as applicable to aeroplane model, provided the rudder has never been removed and/or installed on an aeroplane since this inspection.

Required actions include an elasticity of laminate checker inspection of the rudder side panel to detect external and internal disbonding, and a woodpecker or tap test inspection to detect external disbonding, and repair if necessary. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0525.

Relevant Service Information

Airbus has issued Alert Operators Transmission A55L001–12, dated December 20, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

''Contacting the Manufacturer'' Paragraph in This Proposed AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to the FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase ''its delegated agent'' to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

One commenter to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) stated the following: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.''

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages

provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this proposed AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the FAA, the European Aviation Safety Agency (EASA), or Airbus's EASA DOA.

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Costs of Compliance

We estimate that this proposed AD affects 74 airplanes of U.S. registry.

We also estimate that it would take about 12 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $75,480, or $1,020 per product.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2014–0525; Directorate Identifier 2013–NM–235–AD.

(a) Comments Due Date

We must receive comments by September 29, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; and Model A340–211, –212, –213, –311, –312, and –313 airplanes; certificated in any category; except airplanes on which Airbus Modification 41800 has been embodied in production.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Reason

This AD was prompted by a report of substantial inner skin disbonding damage on a rudder. We are issuing this AD to detect and correct damage of the rudder, which could result in reduced structural integrity of the rudder.

(f) Compliance

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

(g) Rudder Assembly Identification

Within 3 months after the effective date of this AD, inspect for the rudder assembly part number and serial number, in accordance with Airbus Alert Operators Transmission (AOT) A55L001–12, dated December 20, 2012. If the part number or serial number cannot be identified, before further flight, identify the part number and serial number using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(h) Inspection

If a rudder assembly having any part number starting with A55471500 or A55471500XXX (where XXX stands for any numerical value) is found during the inspection required by paragraph (g) of this AD, and has been inspected before the effective date of this AD, as specified in Airbus Service Bulletin A300–55–3038, dated November 7, 2007; or Airbus Service Bulletin A310–55–4034, dated November 7, 2007; as applicable; and has been removed and installed on any airplane after the inspection, or that rudder has been inspected off-wing: Before further flight, do an ultrasonic test inspection for damage (e.g., disbonding and liquid ingress) of the rudder side panel along the Z-profile and in the booster area, in accordance with Airbus AOT A55L001–12, dated December 20, 2012. If any damage is found, before further flight, do the inspections specified in paragraphs (h)(1) and (h)(2) of this AD to confirm disbonding damage, in accordance with AOT A55L001–12, dated December 20, 2012.

(1) Do an elasticity of laminate checker inspection to detect external and internal disbonding.

(2) Do a woodpecker or tap test inspection to detect external disbonding.

(i) Repair

If any disbonding or damage (e.g. liquid ingress) is confirmed during any inspection required by paragraphs (h), (h)(1), and (h)(2) of this AD, repair at the time specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD, as applicable.

(1) If the disbonding is less than or equal to 50 millimeters (mm) in width and less than or equal to 150 mm in length: Before further flight, vent the rudder core using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. Within 100 flight cycles after venting the rudder core, do a permanent repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval for the venting and repair methods must include the DOA-authorized signature.

(2) If the disbonding is greater than 50mm in width, or greater than 150 mm in length: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) If any damage other than disbonding (e.g., liquid ingress) is confirmed during any inspection required by paragraph (h) of this AD, before further flight, repair, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Parts Installation Limitation

As of the effective date of this AD, you may install, on any airplane, a rudder assembly having part number A55471500XXX (where XXX stands for any numerical value), provided the inspection required by paragraph (h) of this AD and all applicable repair actions required by paragraph (i) of this AD are done before further flight.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Tranport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0270R1, dated November 27, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0525.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on July 30, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19155 Filed 8–12–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0530; Directorate Identifier 2014–NM–062–AD]

RIN 2120–AA64

Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain ATR—GIE Avions de Transport Régional Model ATR42–500 airplanes, and Model ATR72–212A airplanes. This proposed AD was prompted by a report that during an inspection of an airplane on the production line, interference was detected between the electrical harness and a bonding lead due to an incorrect installation of the affected bonding lead. This proposed AD would require a detailed inspection for damage or incorrect routing of the bonding lead routing above the 120VU shelf, and if any damage or incorrect routing is found, modifying the bonding lead routing. We are proposing this AD to detect and correct installation of the bonding lead, which could cause arcing and chafing, and could possibly result in an uncontrolled fire.

DATES: We must receive comments on this proposed AD by September 29, 2014.

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

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

For service information identified in this proposed AD, contact ATR—GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21;

fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr.fr;* Internet *http://www.aerochain.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0530; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0530; Directorate Identifier 2014–NM–062–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Airworthiness Directive 2014–0056, dated March 7, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain ATR—GIE Avions de Transport Régional Model ATR42–500 airplanes, and Model ATR72–212A airplanes. The MCAI states:

> During inspection of an aeroplane on the production line, interference was detected between electrical harnesses (2M–2S–6M) and a bonding lead, located in zone 214, positioned above and forward of the 120VU shelf. Subsequent investigation revealed that the interference was a result of an incorrect installation of the affected bonding lead.
>
> This condition, if not detected and corrected, could lead to arcing and chafing, possibly resulting in an uncontrolled fire.
>
> To address this potential unsafe condition, ATR issued Service Bulletin (SB) ATR42–92–0025 and SB ATR72–92–1034, as applicable to aeroplane model, to provide inspection instructions.
>
> For the reasons described above, this [EASA] AD requires a one-time [detailed] inspection [for damage or incorrect routing of the bonding lead routing above the 120VU shelf] of the electrical harness 2M–2S–6M in zone 214 and, depending on findings, accomplishment of corrective action(s).

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0530.

Relevant Service Information

ATR—GIE Avions de Transport Régional has issued ATR Service Bulletin ATR42–92–0025, dated November 7, 2013; and ATR Service Bulletin ATR72–92–1034, dated November 7, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

''Contacting the Manufacturer'' Paragraph in This Proposed AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to the FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase ''its delegated agent'' to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

One commenter to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) stated the following: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.''

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this proposed AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, the European Aviation Safety Agency (EASA), or ATR—GIE Avions de Transport Régional's EASA DOA.

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Costs of Compliance

We estimate that this proposed AD affects 5 airplanes of U.S. registry.

We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $850, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 2 work-hours and require parts costing $0, for a cost of $170 per product. We have no way of determining the number of aircraft that might need this action.

Authority for this Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

ATR—GIE Avions de Transport Régional: Docket No. FAA–2014–0530; Directorate Identifier 2014–NM–062–AD.

(a) Comments Due Date

We must receive comments by September 29, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to ATR—GIE Avions de Transport Régional airplanes, certificated in any category, as identified in paragraph (c)(1) and (c)(2) of this AD.

(1) Model ATR42–500 airplanes, manufacturer serial numbers 669 through 1005 inclusive.

(2) Model ATR72–212A airplanes, manufacturer serial numbers 773, 774, 776 through 1094 inclusive, 1096 through 1099 inclusive, and 1101.

(d) Subject

Air Transport Association (ATA) of America Code 92, Electrical Routing.

(e) Reason

This AD was prompted by a report that during an inspection of an airplane on the production line, interference was detected between the electrical harness and a bonding lead due to an incorrect installation of the affected bonding lead. We are issuing this AD to detect and correct installation of the bonding lead, which could cause arcing and chafing, and could possibly result in an uncontrolled fire.

(f) Compliance

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

(g) Inspection

Within 1,000 flight hours after the effective date of this AD: Do a detailed inspection of the bonding lead routing above the 120VU shelf for damage (i.e., wire chaffing, evidence of burning) or incorrect routing, in accordance with the Accomplishment Instructions of ATR Service Bulletin ATR42–92–0025, dated November 7, 2013 (for Model ATR42–500 airplanes); or ATR Service Bulletin ATR72–92–1034, dated November 7, 2013 (for Model ATR72–212A airplanes).

(h) Corrective Action

If, during the inspection required by paragraph (g) of this AD, any damage (i.e., wire chaffing, evidence of burning) or incorrect routing is found: Before further flight, modify the bonding lead routing above the 120VU shelf, in accordance with the Accomplishment Instructions of ATR Service Bulletin ATR42–92–0025, dated November 7, 2013 (for Model ATR42–500 airplanes); or ATR Service Bulletin ATR72–92–1034, dated November 7, 2013 (for Model ATR72–212A airplanes).

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or ATR—GIE Avions de Transport Régional's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014–0056, dated March 7, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0530.

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

Issued in Renton, Washington, on August 1, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19158 Filed 8–12–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0528; Directorate Identifier 2014–NM–060–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier Inc. Model DHC–8–400 series airplanes. This proposed AD was prompted by a report that during production, an incorrect clevis was used, resulting in improper installation onto the alternate release cable of the main landing gear (MLG). This proposed AD would require a detailed visual inspection of the emergency release clevis of the MLG to determine if an incorrect clevis has been installed, and if necessary, replacing the clevis with a correct clevis and clevis pin. We are proposing this AD to detect and correct improper installation of the clevis, which could cause loss of the alternate release system and prevent the MLG from extending and retracting, and could consequently affect the airplane's continued safe flight and landing.

DATES: We must receive comments on this proposed AD by September 29, 2014.

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

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

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0528; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ezra Sasson, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7320; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0528; Directorate Identifier 2014–NM–060–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–40, dated December 9, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition

for certain Model DHC–8–400 series airplanes. The MCAI states:

> A discrepancy has been found in the Main Landing Gear (MLG) emergency release clevis installation. During production, an incorrect clevis was used, resulting in improper installation onto the MLG alternate release cable. Failure of the clevis could cause the loss of the alternate release system, preventing the MLG from extending in the case of a failure of the normal MLG extension/retraction system.
>
> This [Canadian] AD mandates the inspection for proper MLG emergency release clevis installation, and the rectification as required.

The required actions for this AD include a detailed visual inspection of the emergency release clevis of the MLG to determine if an incorrect clevis has been installed, and if necessary, replacing the clevis with a correct clevis and clevis pin. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0528.

Relevant Service Information

Bombardier, Inc., has issued Service Bulletin 84–32–67, dated July 8, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

''Contacting the Manufacturer'' Paragraph in This Proposed AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to the FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase ''its delegated agent'' to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

One commenter to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) stated the following: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.''

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this proposed AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, Transport Canada Civil Aviation (TCCA), or Bombardier, Inc.'s TCCA Design Approval Organization (DAO)

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DAO, the approval must include the DAO-authorized signature. The DAO signature indicates that the data and information contained in the document are TCCA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DAO-authorized signature approval are not TCCA-approved, unless TCCA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Costs of Compliance

We estimate that this proposed AD affects 18 airplanes of U.S. registry.

We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $3,060, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $0, for a cost of $255 per product. We have no way of determining the number of aircraft that might need this action.

Authority for This Rulemaking

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

detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2014–0528; Directorate Identifier 2014–NM–060–AD.

(a) Comments Due Date

We must receive comments by September 29, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4001 through 4109 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 31, Main Landing Gear.

(e) Reason

This AD was prompted by a report that during production, an incorrect clevis was used, resulting in improper installation onto the alternate release cable of the main landing gear (MLG). We are issuing this AD to detect and correct improper installation of the clevis, which could cause loss of the alternate release system and prevent the MLG from extending and retracting, and could consequently affect the airplane's continued safe flight and landing.

(f) Compliance

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

(g) Inspection

Within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs first: Do a general visual inspection of the emergency release clevis of the MLG to determine if an incorrect clevis has been installed, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–67, dated July 8, 2009. If an incorrect clevis has been installed, before further flight, replace the clevis with a correct clevis and clevis pin, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–67, dated July 8, 2009.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–40, dated December 9, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0528.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 1, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19156 Filed 8–12–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0529; Directorate Identifier 2013–NM–260–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2011–13–11 and AD 2013–16–09, for all Airbus Model A318, A319, A320, and A321 series airplanes. AD 2011–13–11 currently requires an amendment of the airplane flight manual (AFM), repetitive checks of specific centralized fault display system (CFDS) messages, an inspection of the opening sequence of the main landing gear (MLG) door actuator for discrepancies if certain messages are found, and corrective actions if necessary. AD 2013–16–09

currently requires an inspection to determine airplane configuration and part numbers of the landing gear control interface unit and MLG door actuators; and, for affected airplanes, repetitive inspections of the opening sequence of the MLG door actuator, and replacement of the MLG door actuator if necessary; and provides optional terminating action for the repetitive inspections. Since we issued AD 2011–13–11 and AD 2013–16–09, we have determined that the interval of the MLG door opening sequence inspection must be reduced. This proposed AD would reduce the interval of the MLG door opening sequence inspection. This proposed AD would also require replacing or modifying certain MLG door actuators. We are proposing this AD to detect and correct deterioration of the damping ring and associated retaining ring of the MLG door actuator, which can sufficiently increase the friction inside the actuator to restrict opening of the MLG door by gravity, during operation of the landing gear alternate (free-fall) extension system. This condition could prevent the full extension and/or down-locking of the MLG, possibly resulting in MLG collapse during landing and consequent damage to the airplane and injury to occupants.

DATES: We must receive comments on this proposed AD by September 29, 2014.

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

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

For Airbus service information identified in this proposed AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com* Internet *http://www.airbus.com.* For General Electric service information identified in this AD contact GE Aviation, Customer Support Center, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *cs.techpubs@ge.com;* Internet: *http://www.geaviation.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0529; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0529; Directorate Identifier 2013–NM–260–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On June 16, 2011, we issued AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011). AD 2011–13–11 required actions intended to address an unsafe condition on all Airbus Model A318, A319, A320, and A321 series airplanes. The unsafe condition is the deterioration of the damping ring and associated retaining ring of the MLG door actuator, which can sufficiently increase the friction inside the actuator to restrict opening of the MLG door by gravity, during operation of the landing gear alternate (free-fall) extension system. This condition could prevent the full extension and/or down-locking of the MLG, possibly resulting in MLG collapse during landing and consequent damage to the airplane and injury to occupants.

On July 26, 2013, we issued AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013). AD 2013–16–09 required actions intended to detect and correct certain configuration of landing gear control interface unit and actuators, which could prevent the full extension or down-locking of the MLG, possibly resulting in MLG collapse during landing and consequent damage to the airplane and injury to occupants on all Airbus Model A318, A319, A320, and A321 series airplanes.

Since we issued AD 2011–13–11, Amendment 39–16734 (76 FR 37241. June 27, 2011), and AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013), we have determined that the interval of the MLG door opening sequence inspection must be reduced in order to detect and correct deterioration of the damping ring and associated retaining ring of the MLG door actuator, which can sufficiently increase the friction inside the actuator to restrict opening of the MLG door by gravity, during operation of the landing gear alternate (free-fall) extension system. This condition, if not detected and corrected, could prevent the full extension and/or down-locking of the MLG, possibly resulting in MLG collapse during landing and consequent damage to the airplane and injury to occupants.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0288, dated December 6, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Some operators reported slow operation of the main landing gear (MLG) door opening/closing sequence, leading to the generation of ECAM warnings during the landing gear retraction or extension sequence.
>
> Investigations showed that the damping ring and associated retaining ring of the MLG door actuator deteriorate. The resultant debris increases the friction inside the actuator which can be sufficiently high to restrict opening of the MLG door by gravity, during operation of the landing gear alternate (free-fall) extension system.

This condition, if not corrected, could prevent the full extension and/or down locking of the MLG, possibly resulting in MLG collapse during landing or rollout and consequent damage to the aeroplane and injury to occupants.

EASA AD 2006–0112R1 (*http://ad.easa.europa.eu/blob/easa_ad_2006_0112_R1_superseded.pdf/AD_2006-0112R1_1*) was issued to require repetitive inspections of the opening sequence of the MLG door in order to identify the defective actuators, and to introduce as an optional terminating action Airbus production Modification (MOD) 38274 and associated Service Bulletin (SB) A320–32–1338, which incorporate an improved retaining ring, located on the piston rod's extension end, and a new piston rod with machined shoulder to accommodate the thicker section of the modified retaining ring.

After in-service introduction of the new MLG door actuator, Part Number (P/N) 114122012 (Post MOD 38274—SB A320–32–1338), several operators reported failures of internal parts of the MLG door actuator. Investigations confirmed that these failures could result in slow extension of the actuator rod, delaying the MLG door operation, or possibly stopping just before the end of the stroke, preventing the door to reach the fully open position.

EASA AD 2011–0069R1 *(http://ad.easa.europa.eu/blob/easa_ad_2011_0069_R1_superseded.pdf/AD_2011-0069R1_1*) (which corresponds to FAA AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011)), which supersedes EASA AD 2006–0112R1 required an amendment of the applicable Airplane Flight Manual (AFM), repetitive checks of specific Centralized Fault Display System (CFDS) messages, repetitive inspections of the opening sequence of the MLG door actuator and, depending on findings, corrective action(s).

Since that [EASA] AD was issued, Airbus introduced a reinforced MLG door actuator P/N 114122014 (MOD 153655). Airbus issued SB A320–32–1407 containing instructions for in-service replacement of the affected MLG door actuators, or modification of the actuators to the new standard.

In addition, following a recent occurrence with a gear extension problem, the result of additional analyses by Airbus revealed that the CFDS expected specific messages may not be generated and as a result, repetitive checks of messages are not effective for aeroplanes fitted with landing gear control interface unit (LGCIU) interlink communication ARINC 429 (applied in production through Airbus MOD 39303, or in service through Airbus SB A320–32–1409), in combination with LGCIUs 80–178–02–88012 or 80–178–03–88013 in both positions and at least one MLG door actuator pre MOD 153655 (SB A320–32–1407—SB 114122–32–105) installed.

Prompted by these findings, EASA issued Emergency AD 2013–0132–E (*http://ad.easa.europa.eu/blob/easa_ad_2013_0132_E_superseded.pdf/EAD_2013-0132-E_1*) (which corresponds to FAA AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013)) to require identification of the affected aeroplanes to establish the configuration and, for those aeroplanes, repetitive inspections of the opening sequence of the MLG door actuator and, depending on findings, replacement of the MLG door actuator. That [EASA] AD also provided an optional terminating action by disconnection of the interlink for certain LGCIUs, or in-service modification of the aeroplane through Airbus SB A320–32–1407 (equivalent to production MOD 153655).

Since those [EASA] ADs were issues, analyses performed by Airbus have revealed that the MLG door opening sequence inspection interval must be reduced, and that the (previously optional) terminating action must be made mandatory.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2011–0069R1 and [EASA] AD 2013–0132–E, which are superseded, but with reduced inspection intervals, and requires replacement or modification [including related investigative and corrective actions], as applicable, of the affected MLG door actuators as terminating action for the monitoring, repetitive checks and inspections.

The related investigative actions include an inspection for damage (including nicks and burns) of the damping rings and an inspection for mechanical damage of the piston rod. Corrective actions include replacing or modifying parts. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0529.

Relevant Service Information

Airbus has issued Service Bulletin A320–32–1390, Revision 02, dated October 23, 2013; and General Electric has issued Service Bulletin 114122–32–105, Revision 1, dated March 26, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

Paragraph (17) of the MCAI incorrectly refers to paragraph (11) of the MCAI as requiring inspections; however, paragraph (11) of the MCAI specifies replacement actions. Paragraphs (j), (l), and (p) of this proposed AD refer to the inspections specified in paragraph (17) of the MCAI.

''Contacting the Manufacturer'' Paragraph in This Proposed AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to the FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase ''its delegated agent'' to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

One commenter to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) stated the following: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.''

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product

paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this proposed AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, EASA, or Airbus's EASA DOA.

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Revisions to Notes in AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011)

We have removed Note 1 of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011), and included that information in paragraph (g)(3) of this proposed AD.

We have removed Note 2 of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011), and included that information in paragraph (i) of this proposed AD.

We have removed Note 3 of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011), from this proposed AD. The note explained differences with the previous MCAI.

Change to AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013)

We have moved the information specified in paragraph (l) of AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013), into paragraphs (j) and (l) of this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 851 airplanes of U.S. registry.

The actions that are required by AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011), and retained in this proposed AD take about 7 work-hours per product, per inspection cycle, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2011–13–11 is $595 per product.

The actions that are required by AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013), and retained in this proposed AD take about 3 work-hours per product, per inspection cycle, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that were required by AD 2013–16–09 is $255 per product.

We also estimate that it would take about 10 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $17,140 for two actuators. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $15,309,490, or $17,990 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011); and AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013); and

■ b. Adding the following new AD:

Airbus: Docket No. FAA–2014–0529; Directorate Identifier 2013–NM–260–AD.

(a) Comments Due Date

We must receive comments by September 29, 2014.

(b) Affected ADs

This AD replaces AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011); and AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013).

(c) Applicability

This AD applies to the Airbus airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, all manufacturer serial numbers.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Reason

This AD was prompted by a determination that the inspection interval of the MLG door opening sequence must be reduced. We are issuing this AD to detect and correct deterioration of the damping ring and associated retaining ring of the MLG door actuator, which can sufficiently increase the friction inside the actuator to restrict opening of the MLG door by gravity, during operation of the landing gear alternate (free-fall) extension system. This condition could prevent the full extension and/or down-locking of the MLG, possibly resulting in MLG collapse during landing and consequent damage to the aeroplane and injury to occupants.

(f) Compliance

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

(g) Retained Repetitive Inspections/Replacement

This paragraph restates the requirements of paragraph (g) of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011), with a formatting change. At the time specified in paragraph (g)(1) or (g)(2) of this AD, as applicable: Do a general visual inspection of the operation of the MLG door opening sequence to determine if a defective actuator is installed by doing all the applicable actions, including replacing the door actuator, as applicable, specified in the Accomplishment Instructions of Airbus Service Bulletin A320–32–1309, Revision 01, dated June 19, 2006. Do all applicable replacements before further flight. Repeat the inspection thereafter at intervals not to exceed 900 flight cycles. Accomplishing the actions before April 27, 2007 (the effective date of AD 2007–06–18, Amendment 39–14999 (72 FR 13681, March 23, 2007)), in accordance with Airbus Service Bulletin A320–32–1309, dated March 7, 2006, is acceptable for compliance with the corresponding requirements in this paragraph. Doing the inspection required by paragraph (l) of this AD terminates the requirements of this paragraph.

(1) For airplanes on which a record of the total number of flight cycles on the MLG door actuator is available: Before the accumulation of 3,000 total flight cycles on the MLG door actuator, or within 800 flight cycles after April 27, 2007 (the effective date of AD 2007–06–18, Amendment 39–16734 (76 FR 37241, June 27, 2011)), whichever is later.

(2) For airplanes on which a record of the total number of flight cycles on the MLG door actuator is not available: Within 800 flight cycles after April 27, 2007 (the effective date of AD 2007–06–18, Amendment 39–16734 (76 FR 37241, June 27, 2011)).

(3) For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(h) Retained Provision Regarding Reporting/Parts Return

This paragraph restates the requirements of paragraph (h) of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011), with no changes. Although the Accomplishment Instructions of Airbus Service Bulletin A320–32–1309, Revision 01, dated June 19, 2006, specify submitting certain information to the manufacturer and sending defective actuators back to the component manufacturer for investigation, this AD does not include those requirements.

(i) Retained Revision of the Airplane Flight Manual (AFM)

This paragraph restates the requirements of paragraph (i) of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011), with formatting changes. Within 14 days after July 12, 2011 (the effective date of AD 2011–13–11), revise the Emergency Procedure Section of the AFM to incorporate the information in figure 1 to paragraph (i) of this AD. This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure 1 to paragraph (i) of this AD has been included in the Emergency Procedure Section of the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

FIGURE 1 TO PARAGRAPH (i) OF THIS AD—AFM REVISION

- If ECAM triggers the ''L/G GEAR NOT DOWNLOCKED'' warning apply the following procedure:
  Recycle landing gear.
- If unsuccessful after 2 min:
  Extend landing gear by gravity. Refer to AGN–32 L/G GRAVITY EXTENSION.

(j) Retained Repetitive Checks

This paragraph restates the requirements of paragraph (j) of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011), with new optional actions. Within 14 days after July 12, 2011 (the effective date of AD 2011–13–11), or before the accumulation of 800 total flight cycles, whichever occurs later, check the post flight report (PFR) for centralized fault display system (CFDS) messages triggered within the last 8 days, in accordance with paragraph 4.2.1 of Airbus All Operators Telex (AOT) A320–32A1390, dated February 10, 2011. Repeat the check thereafter at intervals not to exceed 8 days or 5 flight cycles, whichever occurs later. If done in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, the use of an alternative method to check the PFR for CFDS messages (e.g., AIRMAN) is acceptable in lieu of this check if the messages can be conclusively determined from that method. Repetitive inspections of the door opening sequence of the left-hand (LH) and right-hand (RH) doors of the MLG, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A320–32–1390, Revision 02, dated October 23, 2013, are an acceptable method of compliance for the actions required by this paragraph. Repetitive inspections of the door opening sequence of the LH and RH doors of the MLG of an airplane, as required by paragraph (p) of this AD, is an acceptable method to comply with the requirements of this paragraph.

(k) Retained On-Condition Inspection

This paragraph restates the requirements of paragraph (k) of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011), with new service information. If, during any check required by paragraph (j) of this AD, a pair of specific CFDS messages specified in paragraph 4.2.1 of Airbus AOT A320–32A1390, dated February 10, 2011, has been triggered by both landing gear control and indication units (LGCIU) for the same flight, before further flight, inspect the door opening sequence of the affected doors of the MLG for discrepancies (i.e., if any condition specified in steps (a) through (d) of paragraph 4.2.2 of Airbus AOT A320–32A1390, dated February 10, 2011, is not met; or if any door actuator fails any inspection check specified in Airbus Service Bulletin A320–32–1390,

Revision 02, dated October 23, 2013). Do the inspection in accordance with paragraph 4.2.2 of Airbus AOT A320–32A1390, dated February 10, 2011; or Airbus Service Bulletin A320–32–1390, Revision 02, dated October 23, 2013. As of the effective date of this AD, use only Airbus Service Bulletin A320–32–1390, Revision 02, dated October 23, 2013, for the actions required by this paragraph.

(l) Retained Repetitive Inspections

This paragraph restates the requirements of paragraph (l) of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011), with new service information, new optional actions, and reduced compliance times. At the applicable time specified in paragraph (l)(1) or (l)(2) of this AD: Inspect the door opening sequence of the LH and RH doors of the MLG for discrepancies (i.e., if any condition specified in steps (a) through (d) of paragraph 4.2.2 of Airbus AOT A320–32A1390, dated February 10, 2011, is not met; or if any door actuator fails any inspection check specified in Airbus Service Bulletin A320–32–1390, Revision 02, dated October 23, 2013). Do the inspection in accordance with the instructions of paragraph 4.2.2 of Airbus AOT A320–32A1390, dated February 10, 2011; or Airbus Service Bulletin A320–32–1390, Revision 02, dated October 23, 2013. As of the effective date of this AD, use only Airbus Service Bulletin A320–32–1390, Revision 02, dated October 23, 2013. Repeat the inspection within 8 days or 5 flight cycles after the effective date of this AD, whichever occurs later, without exceeding 425 flight cycles since the most recent inspection; and thereafter repeat the inspection at intervals not to exceed 8 days or 5 flight cycles, whichever occurs later. In addition, whenever any airplane is not operated for a period longer than 8 days, do the inspection before further flight. Doing this inspection terminates the requirements of paragraph (g) of this AD. Repetitive inspections of the door opening sequence of the LH and RH doors of the MLG of an airplane, as required by paragraph (p) of this AD, is an acceptable method to comply with the requirements of this paragraph.

(1) For airplanes on which an inspection required by paragraph (g) of this AD has been done as of July 12, 2011 (the effective date of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011)): Within 800 flight cycles after doing the most recent inspection required by paragraph (g) of this AD, or within 100 flight cycles after July 12, 2011 (the effective date of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011)), whichever occurs later.

(2) For airplanes on which an inspection required by paragraph (g) of this AD has not been done as of July 12, 2011 (the effective date of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011)): Within 800 flight cycles after July 12, 2011.

(m) Retained Replacement

This paragraph restates the requirements of paragraph (m) of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011), with new service information. If any discrepancy (i.e., if any condition specified in steps (a) through (d) of paragraph 4.2.2 of Airbus AOT A320–32A1390, dated February 10, 2011, is not met; or if any door actuator fails any inspection check specified in Airbus Service Bulletin A320–32–1390, Revision 02, dated October 23, 2013) is found during any inspection required by paragraph (k) or (l) of this AD, before further flight, replace the affected MLG door actuator with a new MLG door actuator, in accordance with the instructions of Airbus AOT A320–32A1390, dated February 10, 2011; or Airbus Service Bulletin A320–32–1390, Revision 02, dated October 23, 2013. As of the effective date of this AD, use only Airbus Service Bulletin A320–32–1390, Revision 02, dated October 23, 2013, to do the actions required by this paragraph.

(n) Retained: No Terminating Action for Certain Requirements

This paragraph restates the statement of paragraph (n) of AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011), with no changes. Replacement of the MLG door actuator as required by paragraph (m) of this AD is not a terminating action for the repetitive actions required by paragraphs (j) and (l) of this AD.

(o) Retained Configuration and Part Number Determination

This paragraph restates the requirements of paragraph (g) of AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013), with no changes. At the later of the compliance times specified in paragraphs (o)(1) and (o)(2) of this AD: Do an inspection to determine the configuration (modification status) of the airplane and identify the part number of the LH and RH LGCIU and MLG door actuators. A review of the airplane delivery or maintenance records is acceptable for compliance with the requirements of this paragraph provided the airplane configuration and installed components can be conclusively determined from that review.

(1) Prior to the accumulation of 800 total flight cycles since first flight of the airplane.

(2) Within 14 days after August 23, 2013 (the effective date of AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013)).

(p) Retained MLG Door Opening Sequence Repetitive Inspections

This paragraph restates the requirements of paragraph (h) of AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013), with no changes. If, during the determination and identification required by paragraph (o) of this AD, the configuration of the airplane is determined to be post-Airbus modification 39303 or post-Airbus Service Bulletin A320–32–1409 (Interlink Communication ARINC 429 installed), and both an LGCIU and a MLG door actuator are installed with a part number listed in table 1 to paragraph (p) of this AD: Except as provided by paragraph (s) of this AD, at the later of the compliance times specified in paragraphs (o)(1) and (o)(2) of this AD, and thereafter at intervals not to exceed 8 days or 5 flight cycles, whichever occurs later, do an inspection of the door opening sequence of the LH and RH MLG doors, in accordance with the instructions of Airbus Alert Operators Transmission (AOT) A32N001–13, dated June 24, 2013.

TABLE 1 TO PARAGRAPH (p) OF THIS AD

Component name	Part number
LGCIU (LH and RH)	80–178–02–88012
LGCIU (LH and RH)	80–178–03–88013
MLG door actuator	114122006
MLG door actuator	114122007
MLG door actuator	114122009
MLG door actuator	114122010
MLG door actuator	114122011
MLG door actuator	114122012

(q) Retained MLG Door Opening Sequence Corrective Action

This paragraph restates the requirements of paragraph (i) of AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013), with no changes. If a slow door operation or restricted extension is found during any inspection required by paragraph (p) of this AD: Before further flight, replace the affected MLG door actuator with a new or serviceable actuator, in accordance with the instructions of Airbus AOT A32N001–13, dated June 24, 2013.

(r) Retained Terminating Action Limitation for Certain Actions

This paragraph restates the requirements of paragraph (j) of AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013), with no changes. Replacement of a MLG door actuator, as required by paragraph (q) of this AD, does not constitute terminating action for the repetitive inspections required by paragraph (p) of this AD, unless MLG door actuators having P/N 114122014 are installed on both LH and RH sides, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1407, dated May 14, 2013.

(s) Retained Repetitive Inspection Exception

This paragraph restates the requirements of paragraph (k) of AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013), with no changes. Airplanes on which the LGCIU interlink is disconnected (Airbus modification 155522 applied in production, or modified in-service in accordance with the instructions of Airbus AOT A32N001–13, dated June 24, 2013), or on which MLG door actuators having P/N 114122014 are installed on both LH and RH sides (Airbus modification 153655 applied in production, or modified in-service in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1407, dated May 14, 2013), are not required to do the actions required by paragraph (p) of this AD, provided that the airplane is not modified to a configuration as defined in paragraph (p) of this AD.

(t) New Replacement of MLG Door Actuator having P/N 114122012

Within 12 months after the effective date of this AD: Replace each MLG door actuator having P/N 114122012 with a MLG door actuator having P/N 14122014, in accordance with the Accomplishment Instructions of

Airbus Service Bulletin A320–32–1407, dated May, 14 2013; or modify each actuator, including doing all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of General Electric Service Bulletin 114122–32–105, Revision 1, dated March 26, 2013; except where General Electric Service Bulletin114122–32–105, Revision 1, dated March 26, 2013, specifies to contact the manufacturer, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(u) New Replacement of Certain Other MLG Door Actuators

Within 24 months after the effective date of this AD: Replace each MLG door actuator having a part number listed in table 1 to paragraph (p) of this AD, except P/N 114122012, with a MLG door actuator having P/N 14122014, in accordance with Accomplishment Instructions of Airbus Service Bulletin A320–32–1407, dated May 14, 2013; or modify each actuator, including doing all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of General Electric Service Bulletin 114122–32–105, Revision 1, dated March 26, 2013; except where General Electric Service Bulletin 114122–32–105, Revision 1, dated March 26, 2013, specifies to contact the manufacturer, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(v) New Terminating Action

Modification of an airplane as required by paragraphs (t) and (u) of this AD, as applicable, constitutes terminating action for all repetitive actions (PFR monitoring checks and inspections) required by this AD for that airplane.

(w) New Conditional Terminating Action

Replacement of a MLG door actuator as required by paragraphs (m) and (q) of this AD; or corrective actions as specified in Airbus AOT A320–32A1390, dated February 10, 2011; or replacement of a MLG door actuator as specified in Airbus Service Bulletin A320–32–1390, Revision 1, dated September 21, 2011; do not constitute terminating action for the repetitive inspections required by paragraphs (j), (l), and (p) of this AD, unless MLG door actuators having P/N 114122014 are installed on both LH and RH sides, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1407, dated May 14, 2013.

(x) New Exception to AD Requirements

An airplane on which MLG door actuators having P/N 114122014 are installed on both LH and RH sides (Airbus MOD 153655 applied in production, or modified in service as specified in Airbus Service Bulletin A320–32–1407, dated May, 14 2013; General Electric Service Bulletin 114122–32–105, dated January 17, 2013; or General Electric Service Bulletin 114122–32–105, Revision 1, dated March 26, 2013; is not affected by the requirements of paragraphs (j) through (u) of this AD, provided that no MLG door actuator with a part number in table 1 to paragraph (p) of this AD has been installed on that airplane since first flight, or since modification, as applicable.

(y) New Parts Installation Prohibitions

(1) Except as specified in paragraph (y)(2) of this AD, as of the effective date of this AD, do not install on any airplane a MLG door actuator, having a part number listed in table 1 to paragraph (p) of this AD.

(2) For an airplane subject to the requirements of paragraphs (t) and (u) of this AD, as applicable, do not install a MLG door actuator having a part number listed in table 1 to paragraph (p) of this AD after modification of the airplane.

(z) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraphs (k), (l), and (m) of this AD, if those actions were performed before the effective date of this AD using Airbus Mandatory Service Bulletin A320–32–1390, Revision 01, dated September 21, 2011, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for actions required by paragraphs (t) and (u) of this AD, if those actions were performed before the effective date of this AD using General Electric Service Bulletin 114122–32–105, dated January 17, 2013, which is not incorporated by reference in this AD.

(aa) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* Except as specified in paragraph (j) of this AD for the use of an alternative method to check the PFR for CFDS messages, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Previously Approved AMOCs:* AMOCs approved previously for the ADs identified in paragraphs (aa)(3)(i) and (aa)(3)(ii) of this AD, are approved as AMOCs for the corresponding provisions of this AD.

(i) AD 2011–13–11, Amendment 39–16734 (76 FR 37241, June 27, 2011).

(ii) AD 2013–16–09, Amendment 39–17547 (78 FR 48286, August 8, 2013).

(bb) Special Flight Permits

Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the airplane can be modified (if the operator elects to do so), provided the MLG remains extended and locked, and that no MLG recycle is done.

(cc) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0288, dated December 6, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0529.

(2) For Airbus service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*.

(3) For General Electric service information identified in this AD, contact GE Aviation, Customer Support Center, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *cs.techpubs@ge.com;* Internet: *http://www.geaviation.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 1, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19157 Filed 8–12–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 169

[Docket ID BIA–2014–0001; DR.5B711.IA000814]

RIN 1076–AF20

Rights-of-Way on Indian Land

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; Extension of comment period.

SUMMARY: On June 17, 2014, we published a proposed rule to revise regulations governing rights-of-way on Indian land. We have since received several requests for extension of the comment period. This notice extends the comment deadline by 45 days and announces the addition of a public hearing on the proposed rule.

DATES: Comments on this rule must be received by October 2, 2014. The public hearing will be held on Wednesday, September 17, 2014, at 1 p.m. Eastern Time.

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

- *Federal rulemaking portal: http://www.regulations.gov.* The rule is listed under the agency name ''Bureau of Indian Affairs.'' The rule has been assigned Docket ID: BIA–2014–0001.
- *Email: consultation@bia.gov.* Include the number 1076–AF20 in the subject line.
- *Mail* or *hand delivery:* Ms. Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MS 3642, Washington, DC 20240. Include the number 1076–AF20 on the envelope.

Please note that none of the following will be considered or included in the docket for this rulemaking: comments received after the close of the comment period (see **DATES**) or comments sent to an address other than those listed above.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION:

On June 17, 2014, we published a proposed rule to comprehensively update and streamline the process for obtaining BIA grants of rights-of-way on Indian land. *See* 79 FR 34455. Since publication of the proposed rule, we have received several requests for extension of the comment period and the opportunity for additional public input. This notice extends the comment deadline by 45 days and announces a public hearing on this proposed rule. The public hearing will be held by teleconference on Wednesday, September 17, from 1 p.m. to 4 p.m., Eastern Time, at (888) 790–2010, passcode 1863865.

The proposed rule, frequently asked questions, and other information are online at: *http://www.bia.gov/WhoWeAre/AS-IA/ORM/RightsofWay/index.htm.*

Dated: August 8, 2014.

Lawrence S. Roberts,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2014–19165 Filed 8–12–14; 8:45 am]

BILLING CODE 4310–W7–P

NATIONAL ENDOWMENT FOR THE ARTS

45 CFR Part 1149

RIN 3135–AA28

Implementing the Program Fraud Civil Remedies Act

AGENCY: National Endowment for the Arts.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Endowment for the Arts (NEA) proposes rules to implement the Program Fraud Civil Remedies Act of 1986 (PFCRA). Any person who makes, submits, or presents a false, fictitious, or fraudulent claim or written statement to the agency causing such fraudulent actions to occur is subject to civil penalties and assessments. The proposed rules authorize the NEA to impose civil penalties and assessments through administrative adjudication. The regulations also establish the procedures the NEA will follow in implementing the provisions of the PFCRA and specifies the hearing and appeal rights of persons subject to penalties and assessments under the PFCRA.

DATES: Submit comments on or before September 12, 2014.

ADDRESSES: You may submit comments, identified by RIN 3135–AA28, by any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
2. *Email: generalcounsel@arts.gov.* Include RIN 3135–AA28 in the subject line of the message.
3. *Fax:* (202) 682–5572.
4. *Mail:* Office of the General Counsel, National Endowment for the Arts, 400 7th Street SW., Washington, DC 20506.
5. *Hand Delivery/Courier:* Office of the General Counsel, National Endowment for the Arts, 400 7th Street SW., Washington, DC 20506.

See the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document for addresses where you may submit comments.

Instructions: All submissions received must include the agency name and Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, including information on how to submit comments electronically, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Aswathi Zachariah, Office of the General Counsel, National Endowment for the Arts, 400 7th Street SW., Washington, DC 20506, Telephone: 202–682–5418.

SUPPLEMENTARY INFORMATION:

Background

In October 1986, Congress enacted the PFCRA, Public Law 99–509 (codified at 31 U.S.C. 3801–3812). The PFCRA established an administrative remedy against any person who makes a false claim or written statement to any of certain Federal agencies and against any person causing such fraudulent actions. In brief, it requires the affected Federal agencies to follow certain procedures in recovering penalties and assessments against people who file false claims or statements for which the liability is $150,000 or less. Initially, the PFCRA did not apply to the NEA. However, pursuant to section 10 of the Inspector General Reform Act of 2008 (Pub. L. 110–409), the scope of PFCRA's coverage has been expanded to include NEA.

The PFCRA requires each affected agency to promulgate rules and regulations necessary to implement its provisions. Following the PFCRA's enactment, at the request of the President's Council on Integrity and Efficiency (PCIE), an interagency task force was established under the leadership of the Department of Health and Human Services to develop model regulations for implementation of the PFCRA by all affected agencies. This

action was in keeping with the stated desire of the Senate Governmental Affairs Committee that ''the regulations would be substantially similar throughout the government.'' (S. Rep. No. 99–212, 99th Cong., 1st Sess. 12 (1985)). The PCIE recommended adoption of the model rules by all affected agencies. Anyone desiring further explanation of the PCIE's model regulations should see the more detailed discussion of the model rules found in the promulgations of several of the agencies that adopted them earlier, including those of the Departments of Justice (53 FR 4034; February 11, 1988 and 53 FR 11645; April 8, 1988); Health and Human Services (52 FR 27423; July 21, 1987 and 53 FR 11656, April 8, 1988); and Transportation (52 FR 36968; October 2, 1987 and 53 FR 880, January 14, 1988).

Statutory and Regulatory Analysis

Under the PFCRA, false claims and statements subject to its provisions are to be investigated by an agency's investigating official. The results of the investigation are then reviewed by an agency reviewing official who determines whether there is adequate evidence to believe that you are liable under the PFCRA. Upon an affirmative finding of adequate evidence, the reviewing official sends to the U.S. Attorney General a written notice of the official's intent to refer the matter to a presiding officer for an administrative hearing. The agency may institute administrative proceedings against you only if the Attorney General, or his/her designee, approves. Any penalty or assessment imposed under the PFCRA may be collected by the Attorney General through the filing of a civil action, or by offsetting amounts, other than tax refunds, you owe the Federal government.

The regulations designate the NEA's Inspector General or his or her designee as the agency's investigating official and the General Counsel or his or her designee as the agency's reviewing official. Any administrative adjudication under the PFCRA will be presided over by an Administrative Law Judge (ALJ) and any appeals from the ALJ's decision will be decided by the Chairman of the NEA or his/her designee.

E-Government Act of 2002 (44 U.S.C. 3504)

Section 206 of the E-Government Act requires agencies, to the extent practicable, to ensure that all information about that agency required to be published in the **Federal Register** is also published on a publicly accessible Web site. All information about the NEA required to be published in the **Federal Register** may be accessed at *http://www.regulations.gov.* This Act also requires agencies to accept public comments on their proposed rules ''by electronic means.'' See heading ''Public Participation'' for directions on electronic submission of public comments on this proposed rule.

Finally, the E-Government Act requires, to the extent practicable, that agencies ensure that a publicly accessible Federal Government Web site contains electronic dockets for rulemakings under the Administrative Procedure Act of 1946 (5 U.S.C. 551 *et seq.*). Under this Act, an electronic docket consists of all submissions under section 553(c) of title 5, United States Code; and all other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically. The Web site *http://www.regulations.gov* contains electronic dockets for the NEA's rulemakings under the Administrative Procedure Act of 1946.

Executive Order 12866

Executive Order 12866 established a process for review of rules by the Office of Information and Regulatory Affairs, which is within the Office of Management and Budget. Only ''significant'' proposed and final rules are subject to review under this Executive Order. ''Significant,'' as used in E.O. 12866, means ''economically significant,'' and refers to rules with an impact on the economy of $100 million or that (1) were inconsistent or interfered with an action taken or planned by another agency; (2) materially altered the budgetary impact of entitlements, grants, user fees, or loan programs; or (3) raised novel legal or policy issues.

This rule is not a significant policy change and the Office of Management and Budget has not reviewed this rule under E.O. 12866. We have made the assessments required by E.O. 12866 and have determined that this departmental policy: (1) Will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. (2) Will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. (3) Does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. (4) Does not raise novel legal or policy issues.

Federalism (Executive Order 13132)

This rule does not have Federalism implications, as set forth in E.O. 13132. As used in this order, Federalism implications mean ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' The NEA has determined that this rule will not have Federalism implications within the meaning of E.O. 13132.

Improving Regulations and Regulatory Review (Executive Order 13563)

The NEA has written this rule in compliance with E.O. 13563 by ensuring its accessibility, consistency, simplicity of language, and overall comprehensibility. In addition, the public participation goals of this order are also satisfied by the NEA's participation in a process in which its views and information are made public to the extent feasible, and before any decisions are actually made. This will allow the public the opportunity to react to the comments, arguments, and information of others during the rulemaking process. The NEA initiates its participation in an open exchange by posting the proposed regulation and its rulemaking docket on *http://www.regulations.gov.*

Finally, Section 2 directs agencies, where feasible and appropriate, to seek the views of those who are likely to be affected by rulemaking, even before issuing a notice of proposed rulemaking. This provision emphasizes the importance of prior consultation with ''those who are likely to benefit from and those who are potentially subject to such rulemaking.'' One goal is to solicit ideas about alternatives, relevant costs and benefits (both quantitative and qualitative), and potential flexibilities. The NEA reaches out to interested and affected parties by soliciting comments through its own Web site at *http://www.arts.gov/about/index.html,* where we invite comments via email to *generalcounsel@arts.gov.*

By modeling this rule on the PCIE's model rules and PFCRA regulations promulgated by other agencies, the NEA advances E.O. 13563's goals of simplifying and harmonizing regulations and promoting predictability, certainty, and innovation.

Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)

This rule will not impose any ''information collection'' requirements under the Paperwork Reduction Act. Under the Act, information collection means the obtaining or disclosure of facts or opinions by or for an agency by 10 or more nonfederal persons.

Plain Writing Act of 2010 (5 U.S.C. Sec. 301)

Under this Act, the term ''plain writing'' means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience. To ensure that this rule has been written in plain and clear language so that it can be used and understood by the public, the NEA has modeled the language of this rule on the Federal Plain Language Guidelines.

Regulatory Flexibility Act of 1980 (5 U.S.C. Sec. 605(b))

This rule will not have a significant adverse impact on a substantial number of small entities, including small businesses, small governmental jurisdictions, or certain small not-for-profit organizations.

Unfunded Mandates Act of 1995 (Section 202, Pub. L. 104–4)

This rule does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year.

Public Participation

If you submit comments via email to *generalcounselarts.gov,* submit comments as a Word document avoiding the use of special characters and any form of encryption. If you send your comments as a fax, please attach a cover sheet that includes the agency name, date, RIN, and the subject line ''Comments to proposed rule.''

List of Subjects in 45 CFR 1149

Administrative practice and procedure, Claims, Fraud, Investigations, Organization and function (government agencies), Penalties.

■ For the reasons stated in the preamble, the National Endowment for the Arts proposes to add a new part 1149 to Chapter XI of Title 45 of the Code of Federal Regulations to read as follows:

PART 1149—PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

Subpart A—Purpose and Definitions

Sec.
1149.1 Purpose.
1149.2 Definitions.

Subpart B—Claims and Statements

Sec.
1149.3 What is a claim?
1149.4 When is a claim made?
1149.5 What is a false claim?
1149.6 What is a statement?
1149.7 What is a false statement?

Subpart C—Basis for Liability

Sec.
1149.8 What kind of conduct results in program fraud enforcement?
1149.9 What civil penalties and assessments may I be subjected to?

Subpart D—Procedures Leading to the Issuance of a Complaint

Sec.
1149.10 How is program fraud investigated?
1149.11 May the investigating official issue a subpoena?
1149.12 What happens if program fraud is suspected?
1149.13 When may NEA issue a complaint?
1149.14 What is contained in a complaint?
1149.15 How will the complaint be served?
1149.16 What constitutes proof of service?

Subpart E—Procedures Following Service of a Complaint

Sec.
1149.17 How do you respond to the complaint?
1149.18 May I file a general answer?
1149.19 What happens once an answer is filed?
1149.20 What must the notice of hearing include?
1149.21 When must the ALJ serve the notice of oral hearing?
1149.22 What happens if you fail to file an answer?
1149.23 May I file a motion to reopen my case?
1149.24 What happens if my motion to reopen is denied?
1149.25 When, if ever, will time be tolled?

Subpart F—Hearing Procedures

Sec.
1149.26 What kind of hearing is contemplated?
1149.27 What is the role of the ALJ?
1149.28 What does the ALJ have the authority to do?
1149.29 What rights do you have at the hearing?
1149.30 How are the functions of the ALJ separated from those of the investigating official and the reviewing official?
1149.31 Can the reviewing official or the ALJ be disqualified?
1149.32 Do you have a right to review documents?
1149.33 What type of discovery is authorized and how is it conducted?
1149.34 How are motions for discovery handled?
1149.35 When may an ALJ grant a motion for discovery?
1149.36 How are depositions handled?
1149.37 Are witness lists and exhibits exchanged before the hearing?
1149.38 Can witnesses be subpoenaed?
1149.39 Who pays the costs for a subpoena?
1149.40 When may I file a motion to quash a subpoena?
1149.41 Are protective orders available?
1149.42 What does a protective order protect?
1149.43 How are documents filed and served with the ALJ?
1149.44 What must documents filed with the ALJ include?
1149.45 How is time computed?
1149.46 Where is the hearing held?
1149.47 How will the hearing be conducted?
1149.48 Who has the burden of proof?
1149.49 How is evidence presented at the hearing?
1149.50 How is witness testimony presented?
1149.51 How can I exclude a witness?
1149.52 Will the hearing proceedings be recorded?
1149.53 Are ex parte communications between a party and the ALJ permitted?
1149.54 Are there sanctions for misconduct?
1149.55 What happens if I fail to comply with an order?
1149.56 Are post-hearing briefs required?

Subpart G—Decisions and Appeals

Sec.
1149.57 How is the case decided?
1149.58 When will the ALJ serve the initial decision?
1149.59 How are penalty and assessment amounts determined?
1149.60 What factors are considered in determining the amount of penalties and assessments to impose?
1149.61 Can a party request reconsideration of the initial decision?
1149.62 When does the initial decision of the ALJ become final?
1149.63 What are the procedures for appealing the ALJ decision?
1149.64 What happens if an initial decision is appealed?
1149.65 Are there any limitations on the right to appeal to the authority head?
1149.66 How does the authority head dispose of an appeal?
1149.67 Who represents the NEA on an appeal?
1149.68 What judicial review is available?
1149.69 Can the administrative complaint be settled voluntarily?
1149.70 How are civil penalties and assessments collected?
1149.71 Is there a right to administrative offset?
1149.72 What happens to collections?
1149.73 What if the investigation indicates criminal misconduct or a violation of the False Claims Act?
1149.74 How does the NEA protect your rights

Authority: 31 U.S.C. 3801–3812; 5 U.S.C. App. 8G(a)(2).

Subpart A—Purpose and Definitions

§ 1149.1 Purpose.

This part implements the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. §§ 3801–3812 (PFCRA). The PFCRA provides the NEA, and other Federal agencies, with an administrative remedy to impose civil penalties and assessments against you if you make or cause to be made false, fictitious, or fraudulent claims or written statements to the NEA. The PFCRA also provides due process protections to you if you are subject to administrative proceedings under this part.

§ 1149.2 Definitions.

For the purposes of this part—

Authority means the National Endowment for the Arts.

Authority Head means the Chairperson/head of the National Endowment for the Arts or the Chairperson/authority head/s designee.

Benefit means anything of value, including but not limited to, any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

Defendant means any person alleged in a complaint to be liable for a civil penalty or assessment pursuant to the PFCRA.

Government means the United States Government.

''Group of related claims submitted at the same time'' means only those claims arising from the same transaction (such as a grant, loan, application, or contract) which are submitted together as part of a single request, demand, or submission.

Initial decision means the written decision of the Administrative Law Judge (ALJ), and includes a revised initial decision issued following a remand or a motion for reconsideration.

Investigating official means:

(a) The NEA Inspector General; or

(b) A designee of the NEA Inspector General.

Knows or *has reason to know* means that a person:

(a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent; or

(b) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(c) Acts in reckless disregard of the truth or falsity of the claim or statement.

Makes, whenever it appears, must include the terms *presents, submits,* and *causes to be made, presented, or submitted.* As the context requires, *making* or *made* must likewise include the corresponding forms of such terms.

Person means any individual, partnership, corporation, association, or private organization, and includes the plural of that term.

Representative means an attorney who is in good standing of the bar of any State, Territory, or possession of the United States, or of the District of Columbia, or the Commonwealth of Puerto Rico, or any other individual designated in writing by you.

Reviewing official means the General Counsel of the NEA or the General Counsel's designee.

Subpart B—Claims and Statements

§ 1149.3 What is a claim?

(a) Claim means any request, demand, or submission:

(1) Made to the NEA for property, services, or money (including money representing grants, loans, insurance or benefits);

(2) Made to a recipient of property or services from the NEA, or to a party to a contract with the NEA for property or services if the United States (i) provided such property or services; (ii) provided any portion of the funds for the purchase of such property or services; or (iii) will reimburse such recipient or party for the purchase of such property or services;

(3) Made to the NEA for the payment of money (including money representing grants, loans, insurance, or benefits) if the United States (i) provided any portion of the money requested or demanded; or (ii) will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(4) Made to the NEA which has the effect of decreasing an obligation to pay or account for property, services, or money.

(b) A claim can relate to grants, loans, insurance, or other benefits, and includes the NEA guaranteed loans made by participating lenders.

(c) Each voucher, invoice, claim form, or individual request or demand for property, services, or money constitutes a separate claim.

§ 1149.4 When is a claim made?

A claim is made to the NEA, when such claim is actually made to an agent, fiscal intermediary, or other person or entity, including any State or political subdivision of a State, acting for or on behalf of the NEA; or

(b) a recipient of property, services, or money from the Government, or the party to a contract with the NEA.

§ 1149.5 What is a false claim?

(a) A claim submitted to the NEA is ''false'' if it:

(1) Is false, fictitious or fraudulent;

(2) Includes or is supported by a written statement which asserts or contains a material fact which is false, fictitious, or fraudulent;

(3) Includes or is supported by a written statement which is false, fictitious or fraudulent because it omits a material fact that you have a duty to include in the statement; or

(4) Is for payment for the provision of property or services which you have not provided as claimed.

§ 1149.6 What is a statement?

(a) A *statement* means any written representation, certification, affirmation, document, record, or accounting or bookkeeping entry made with respect to a claim (including relating to eligibility to make a claim) or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or with respect to (including relating to eligibility for) a contract, bid or proposal for a contract with the NEA, or a grant, loan or other benefit from the NEA, including applications and proposals for such grants, loans, or other benefits, if the United States Government provides any portion of the money or property under such contract or for such grant, loan or benefit, or if the Government will reimburse any party for any portion of the money or property under such contract or for such grant, loan, or benefit.

(b) A statement is made, presented, or submitted to the NEA when such statement is actually made to an agent, fiscal intermediary, or other person or entity acting for or on behalf of the NEA, including any State or political subdivision of a State, acting for or on behalf of the NEA; or the recipient of property, services, or money from the Government; or the party to a contract with the NEA.

§ 1149.7 What is a false statement?

(a) A statement submitted to the NEA is a *false statement* if you make the statement, or cause the statement to be made, while knowing or having reason to know that the statement:

(1) Asserts a material fact that is false, fictitious, or fraudulent; or

(2) Is false, fictitious, or fraudulent because it omits a material fact that you have a duty to include in the statement and contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement.

(b) Each written representation, certification, or affirmation constitutes a separate statement.

Subpart C—Basis for Liability

§ 1149.8 What kind of conduct results in program fraud enforcement?

If you make false claims or false statements, you may be subject to civil penalties and assessments under the PFCRA.

§ 1149.9 What civil penalties and assessments may I be subjected to?

(a) In addition to any other penalties that may be prescribed by law, the PFCRA may subject you to the following:

(1) A civil penalty of not more than $5,000 for each false, fictitious or fraudulent statement or claim; and

(2) If the NEA has made any payment, transferred property, or provided services in reliance on a false claim, you are also subject to an assessment of not more than twice the amount of the false claim. This assessment is in lieu of damages sustained by the NEA because of the false claim.

(b) Each false, fictitious, or fraudulent claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(c) No proof of specific intent to defraud is required to establish liability under this section for either false claims or false statements.

(d) In any case in which it is determined that more than one person is liable for making a false, fictitious, or fraudulent claim or statement under this section, each such person may be held liable for a civil penalty and assessment under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of persons.

Subpart D—Procedures Leading to the Issuance of a Complaint

§ 1149.10 How is program fraud investigated?

The Inspector General, or his/her designee, is the investigating official responsible for investigating allegations that you have made a false claim or statement.

§ 1149.11 May the investigating official issue a subpoena?

(a) Yes. The Inspector General has authority to issue administrative subpoenas for the production of records and documents. If an investigating official concludes that a subpoena is warranted, he/she may issue a subpoena.

(1) The issued subpoena must notify you of the authority under which it is issued and must identify the records or documents sought;

(2) The investigating official may designate a person to act on his or her behalf to receive the documents sought; and

(3) You are required to tender to the investigating official, or the person designated to receive the documents, a certification that

(i) The documents sought have been produced;

(ii) Such documents are not available and the reasons therefore; or

(iii) Such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) Nothing in this section precludes or limits an investigating official's discretion to refer allegations within the Department of Justice for suit under the False Claims Act or other civil relief, or to defer or postpone a report or referral to the reviewing official to avoid interference with a criminal investigation or prosecution.

(c) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the appropriate component of the Department of Justice.

§ 1149.12 What happens if program fraud is suspected?

(a) If the investigating official concludes that an action under this part is warranted, the investigating official submits a report containing the findings and conclusions of the investigation to the reviewing official.

(b) If the reviewing official determines that the report provides adequate evidence that you have made a false, fictitious or fraudulent claim or statement, the reviewing official shall transmit to the Attorney General written notice of an intention to refer the matter for adjudication, with a request for approval of such referral. This notice will include the reviewing official's statements concerning:

(1) The reasons for the referral;

(2) The claims or statements upon which liability would be based;

(3) The evidence that supports liability;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in the false claim or statement;

(5) Any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments.

(c) If, at any time, the Attorney General or his or her designee requests in writing that this administrative process be stayed, the authority head must stay the process immediately. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 1149.13 When may the NEA issue a complaint?

The NEA may issue a complaint:

(a) If the Attorney General, or his/her designee, approves the referral of the allegations for adjudication in a written statement; and

(b) In a case of submission of false claims, if the amount of money or the value of property or services demanded or requested in a false claim, or a group of related claims submitted at the same time, does not exceed $150,000.

§ 1149.14 What is contained in a complaint?

(a) A *complaint* is a written statement giving you notice of the specific allegations being referred for adjudication and of your right to request a hearing regarding those allegations.

(b) The reviewing official may join in a single complaint, false claims or statements that are unrelated, or that were not submitted simultaneously, so long as each claim made does not exceed the amount provided in 31 U.S.C. § 3803(c).

(c) The complaint must state that the NEA seeks to impose civil penalties, assessments, or both, against you and will include:

(1) The allegations of liability against you, including the statutory basis for liability, identification of the claims or statements involved, and the reasons liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which you may be held liable;

(3) A statement that you may request a hearing by filing an answer and may be represented by a representative;

(4) Instructions for filing such an answer; and

(5) A warning that failure to file an answer within 30 days of service of the complaint will result in imposition of the maximum amount of penalties and assessments.

(d) The reviewing official must serve you with any complaint and, if you

request a hearing, provide a copy to the ALJ assigned to the case.

§ 1149.15 How will the complaint be served?

(a) The complaint must be served on you as an individual directly, on a partnership through a general partner, and on corporations or on unincorporated associations through an executive officer or a director. Service may also be made on any person authorized by appointment or by law to receive process for you or a legal entity.

(b) The complaint may be served either by:

(1) Registered or certified mail; or

(2) Personal delivery by anyone 18 years of age or older.

(c) The date of service is the date of personal delivery or, in the case of service by registered or certified mail, the date of postmark.

§ 1149.16 What constitutes proof of service?

(a) Proof of service is established by the following:

(1) When service is made by registered or certified mail, the return postal receipt will serve as proof of service.

(2) When service is made by personal delivery, an affidavit of the individual serving the complaint, or written acknowledgment of your receipt or of receipt by a representative, will serve as proof of service.

(b) When served with the complaint, the serving party must also serve you with a copy of this part 1149 and 31 U.S.C. 3801–3812.

Subpart E—Procedures Following Service of a Complaint

§ 1149.17 How do you respond to the complaint?

(a) You may respond to the complaint by filing an answer with the reviewing official within 30 days of service of the complaint. A timely answer will be considered a request for an oral hearing.

(b) In the answer, you—

(1) Must admit or deny each of the allegations of liability contained in the complaint (a failure to deny an allegation is considered an admission);

(2) Must state any defense on which you intend to rely;

(3) May state any reasons why you believe the penalties, assessments, or both should be less than the statutory maximum; and

(4) Must state the name, address, and telephone number of the person authorized by you to act as your representative, if any.

§ 1149.18 May I file a general answer?

(a) If you are unable to file a timely answer which meets the requirements set forth in section 1149.17(b), you may file with the reviewing official a general answer denying liability, requesting a hearing, and requesting an extension of time in which to file a complete answer. A general answer must be filed within 30 days of service of the complaint.

(b) If you file a general answer requesting an extension of time, the reviewing official must promptly file with the ALJ the complaint, the general answer, and the request for an extension of time.

(c) For good cause shown, the ALJ may grant you up to 30 additional days within which to file an answer meeting the requirements of paragraph (b) of this section. You must file the answer with the ALJ and serve a copy on the reviewing official.

§ 1149.19 What happens once an answer is filed?

(a) When the reviewing official receives an answer, he/she must simultaneously file the complaint, the answer, and a designation of the NEA's representative with the ALJ.

(b) When the ALJ receives the complaint and the answer, he/she will promptly serve a notice of hearing upon you and the NEA representative, in the same manner as the complaint. At the same time, the ALJ must send a copy of such notice to the reviewing official or his designee.

§ 1149.20 What must the notice of hearing include?

The notice must include:

(a) The tentative time, place, and nature of the hearing;

(b) The legal authority and jurisdiction under which the hearing is being held;

(c) The matters of fact and law to be asserted;

(d) A description of the procedures for the conduct of the hearing;

(e) The name, address, and telephone number of your representative and the NEA's representative; and

(f) Such other matters as the ALJ deems appropriate.

§ 1149.21 When must the ALJ serve the notice of oral hearing?

Unless the parties agree otherwise, the ALJ must serve the notice of oral hearing within six years of the date on which the claim or statement is made.

§ 1149.22 What happens if you fail to file an answer?

(a) If you do not file any answer within 30 days after service of the complaint, the reviewing official may refer the complaint to the ALJ.

(b) Once the complaint is referred, the ALJ will promptly serve on you a notice that he/she will issue an initial decision.

(c) The ALJ will assume the facts alleged in the complaint are true. If such facts establish liability under the statute, the ALJ will issue an initial decision imposing the maximum amount of penalties and assessments allowed under the PFCRA.

(d) Except as otherwise provided in this section, when you fail to file a timely answer, you waive any right to further review of the penalties and assessments imposed in the initial decision. This initial decision will become final and binding 30 days after it is issued.

§ 1149.23 May I file a motion to reopen my case?

(a) You may file a motion with the ALJ asking him/her to reopen the case at any time before an initial decision becomes final. The ALJ may only reopen a case if, in this motion, he/she determines that you set forth extraordinary circumstances that prevented you from filing a timely answer. The initial decision will be stayed until the ALJ makes a decision on your motion to reopen. The reviewing official may respond to the motion.

(b) If the ALJ determines that you have demonstrated extraordinary circumstances excusing your failure to file a timely answer, the ALJ will withdraw the initial decision and grant you an opportunity to answer the complaint.

(c) A decision by the ALJ to deny your motion to reopen a case is not subject to review or reconsideration.

§ 1149.24 What happens if my motion to reopen is denied?

(a) You may appeal the decision denying a motion to reopen to the authority head by filing a notice of appeal with the authority head within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal must stay the initial decision until the authority head decides the issue.

(b) If you file a timely notice of appeal with the authority head, the ALJ must forward the record of the proceeding to the authority head.

(c) The authority head must decide promptly, based solely on the record previously before the ALJ, whether extraordinary circumstances excuse your failure to file a timely answer.

(d) If the authority head decides that extraordinary circumstances excused

your failure to file a timely answer, the authority head must remand the case to the ALJ with instructions to grant you an opportunity to answer.

(e) If the authority head decides that your failure to file a timely answer is not excused, the authority head must reinstate the initial decision of the ALJ, which becomes final and binding upon the parties 30 days after the authority head issues such a decision.

§ 1149.25 When, if ever, will time be tolled?

Time will be tolled in the following instances:

(a) If you are granted a 30 day extension to file your answer, the 30 days will be tolled to the six year oral hearing limitation thereby providing the ALJ six years and 30 days to serve the notice of oral hearing as discussed in § 1149.18(c);

(b) If a notice of appeal is filed as discussed in § 1149.24(a);

(c) If a motion is filed to disqualify a reviewing official or an ALJ disqualifies himself/herself as discussed in § 1149.31(c); or

(d) In any other instance in which time is suspended or delayed as a result of an appeal, request for reconsideration, untimely filing, or extensions.

Subpart F—Hearing Procedures

§ 1149.26 What kind of hearing is contemplated?

The hearing is a formal proceeding conducted by the ALJ during which you will have the opportunity to dispute liability, present testimony, and cross-examine witnesses.

§ 1149.27 What is the role of the ALJ?

(a) An ALJ, who will be retained by the NEA, serves as the presiding officer at all hearings. ALJs are selected by the Office of Personnel Management. The ALJ is assigned to cases in rotation so far as practicable, and may not perform duties inconsistent with their duties and responsibilities as administrative law judges.

(b) The ALJ must conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

§ 1149.28 What does the ALJ have the authority to do?

(a) The ALJ has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing, in whole or in part, for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this part.

(b) The ALJ does not have the authority to find Federal statutes or regulations invalid.

§ 1149.29 What rights do you have at the hearing?

Each party to the hearing has the right to:

(a) Be represented by a representative;

(b) Request a pre-hearing conference and participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law which will be made a part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing, as permitted by the ALJ.

§ 1149.30 How are the functions of the ALJ separated from those of the investigating official and the reviewing official?

(a) The investigating official, the reviewing official, and any employee or agent of the authority who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case:

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the review of the initial decision by the authority head; or

(3) Make the collection of penalties and assessment.

(b) The ALJ must not be responsible to or subject to the supervision or direction of the investigating official or the reviewing official.

§ 1149.31 Can the reviewing official or ALJ be disqualified?

(a) A reviewing official or an ALJ may disqualify himself or herself at any time.

(b) Upon motion of any party, the reviewing official or ALJ may be disqualified as follows:

(1) The motion must be supported by an affidavit containing specific facts establishing that personal bias or other reason for disqualification exists, including the time and circumstances of the discovery of such facts;

(2) The motion must be filed promptly after discovery of the grounds for disqualification or the objection will be deemed waived; and

(3) The party, or representative of record, must certify in writing that the motion is made in good faith.

(c) Once a motion has been filed to disqualify the reviewing official or the ALJ, the ALJ will halt the proceedings until resolving the matter of disqualification. If the ALJ determines that the reviewing official is disqualified, the ALJ will dismiss the complaint without prejudice. If the ALJ disqualifies himself/herself, the case will be promptly reassigned to another ALJ. However, if the ALJ denies a motion to disqualify, the matter will be determined by the authority head only during his/her review of the initial decision on appeal.

§ 1149.32 Do you have a right to review documents?

(a) Yes. Once the ALJ issues a hearing notice, and upon written request to the reviewing official, you may:

(1) Review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official are based, unless such documents are subject to a privilege under Federal law. Upon payment of fees for duplication, you may obtain copies of such documents; and

(2) Obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint. You may obtain exculpatory information even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(b) The notice sent to the Attorney General from the reviewing official is not discoverable under any circumstances.

(c) If the reviewing official does not respond to your request within 20 days, you may file a motion to compel disclosure of the documents with the ALJ subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer.

§ 1149.33 What type of discovery is authorized and how is it conducted?

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section, the term *documents* includes information, documents, reports, answers, records, accounts, papers, electronic data and other data and documentary evidence. Nothing contained herein must be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ must regulate the timing of discovery.

§ 1149.34 How are motions for discovery handled?

Motions for discovery must be handled according to the following:

(a) A party seeking discovery may file a motion with the ALJ. Such a motion must be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(b) Within 10 days of service, a party may file an opposition to the motion and/or a motion for protective order.

§ 1149.35 When may an ALJ grant a motion for discovery?

(a) The ALJ may grant a motion for discovery only if he/she finds that the discovery sought—

(1) Is necessary for the expeditious, fair, and reasonable consideration of the issues;

(2) Is not unduly costly or burdensome;

(3) Will not unduly delay the proceeding; and

(4) Does not seek privileged information.

(b) The burden of showing that discovery should be allowed is on the party seeking discovery.

(c) The ALJ may grant discovery subject to a protective order.

§ 1149.36 How are depositions handled?

(a) Depositions are to be handled in the following manner:

(1) If a motion for deposition is granted, the ALJ must issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena must specify the time and place at which the deposition will be held.

(2) The party seeking to depose must serve the subpoena in the manner prescribed by § 1149.12.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within 10 days of service.

(4) The party seeking to depose must provide for the taking of a verbatim transcript of the deposition, which it must make available to all other parties for inspection and copying.

(b) Each party must bear its own costs of discovery.

§ 1149.37 Are witness lists and exhibits exchanged before the hearing?

(a) The parties must exchange witness lists and copies of proposed hearing exhibits at least 15 days before the hearing or at such other time as ordered by the ALJ. This includes copies of any written statements or transcripts of deposition testimony that each party intends to offer in lieu of live testimony.

(b) If a party objects, the ALJ will not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to an opposing party in advance unless the ALJ finds good cause for the omission or concludes that there is no prejudice to the objecting party.

(c) Documents exchanged in accordance with this section are deemed to be authentic for the purpose of admissibility at the hearing unless a party objects within the time set by the ALJ.

§ 1149.38 Can witnesses be subpoenaed?

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena must file a written request not less than 15 days before the date of the hearing unless otherwise allowed by the ALJ upon a showing of good cause. Such request must specify any documents to be produced, must designate the witnesses, and describe the address and location of the desired witness with sufficient particularity to permit such witnesses to be found.

(d) The subpoena must specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena must serve it in the manner prescribed in § 1149.11. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

§ 1149.39 Who pays the costs for a subpoena?

The party requesting a subpoena must pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage must accompany the subpoena when served, except that when a subpoena is issued on behalf of the NEA, a check for witness fees and mileage need not accompany the subpoena.

§ 1149.40 When may I file a motion to quash a subpoena?

A party, entity or the person to whom the subpoena is directed, may file with the ALJ a motion to quash the subpoena:

(a) Within 10 days after service; or

(b) On or before the time specified in the subpoena for compliance if it is less than 10 days after service.

§ 1149.41 Are protective orders available?

A party or prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability of an individual or disclosure of evidence.

§ 1149.42 What does a protective order protect?

In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(a) That the discovery not be had;

(b) That the discovery may be had only under specified terms and conditions, including a designation of the time or place;

(c) That the discovery may be had only through a different method of discovery than requested;

(d) That certain matters are not inquired into, or that the scope of discovery is limited to certain matters;

(e) That only those persons designated by the ALJ may be present during discovery;

(f) That the contents of the discovery or evidence are sealed;

(g) That a sealed deposition is opened only by order of the ALJ;

(h) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(i) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 1149.43 How are documents filed and served with the ALJ?

(a) Documents are considered filed when they are mailed. The date of mailing may be established by a certificate from the party or his/her representative, or by proof that the document was sent by certified or registered mail.

(b) A party filing a document with the ALJ must, at the time of filing, serve a copy of such document on every other party. When a party is represented by a representative, the party's representative must be served in lieu of the party.

(c) A certificate of the individual serving the document by personal delivery or mail and setting forth the manner of service will be proof of service.

(d) Service upon any party of any document other than the complaint must be made by delivering a copy or by placing a copy in the United States mail, postage prepaid and addressed to the party's last known address.

(e) If a party consents in writing, documents may be sent electronically. In this instance, service is complete upon transmission unless the serving party receives electronic notification that transmission of the communication was not completed.

§ 1149.44 What must documents filed with the ALJ include?

(a) Documents filed with the ALJ must include:

(1) An original; and

(2) Two copies.

(b) Every document filed in the proceeding must contain:

(1) A title, for example, ''motion to quash subpoena'';

(2) A caption setting forth the title of the action; and

(3) The case number assigned by the ALJ.

(c) Every document must be signed by the filer, or his/her representative, and contain the address or telephone number of that person.

§ 1149.45 How is time computed?

(a) In computing any period of time under this part or in an order issued under it, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal government, in which event it includes the next business day.

—*Time Calculating Example:* If the ALJ denies your motion for an appeal on Wednesday, December 10th you have 15 days to file the notice of appeal. Since the 15th day falls on Christmas, a legal holiday observed by the Federal government, the deadline will be the next business day, Friday, December 26th.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal government must be excluded from the computation.

(c) Where a document has been served or issued by placing it in the mail, an additional five days will be added to the time permitted for any response.

§ 1149.46 Where is the hearing held?

The ALJ may hold the hearing:

(a) In any judicial district of the United States:

(b) In which you reside or transact business; or

(c) In which the claim or statement on which liability is based was made to the NEA; or

(d) In such other place as agreed upon by you and the ALJ.

§ 1149.47 How will the hearing be conducted?

(a) The ALJ conducts a hearing on the record in order:

(1) To determine whether you are liable for a civil penalty, assessment, or both; and

(2) If so, to determine the appropriate amount of the penalty and/or assessment, considering any aggravating or mitigating factors.

(b) The hearing will be recorded and transcribed, and the transcript of testimony, exhibits admitted at the hearing, and all papers filed in the proceeding constitute the record for a decision by the ALJ.

(c) The hearing will be open to the public unless otherwise ordered by the ALJ for good cause shown.

§ 1149.48 Who has the burden of proof?

(a) The NEA must prove your liability and any aggravating factors by a preponderance of the evidence.

(b) You must prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

§ 1149.49 How is evidence presented at the hearing?

(a) The ALJ determines the admissibility of evidence.

(b) Except as provided in this part, the ALJ is not bound by the Federal Rules of Evidence. However, the ALJ may choose to apply the Federal Rules of Evidence where he/she deems appropriate, for example, to exclude unreliable evidence.

(c) The ALJ must exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) The following evidence concerning offers of compromise or settlement is inadmissible when offered to prove liability for, invalidity of, or amount of a claim that was disputed as to validity or amount, or to impeach through a prior inconsistent statement or contradiction:

(1) Providing, offer, or promising to provide a valuable consideration in compromising or attempting to compromise the claim;

(2) Accepting, offering, or promising to accept a valuable consideration in compromising or attempting to compromise the claim; and

(3) Conduct or statements made in compromise negotiations regarding the claim, except when offered in a criminal case and the negotiations related to a claim by a public office or authority in the exercise of regulatory, investigative, or enforcement authority.

(g) The ALJ must permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence taken for the record must be open to examination by all parties unless otherwise ordered by the ALJ.

§ 1149.50 How is witness testimony presented?

(a) Except as provided in paragraph (b) of this section, testimony at the hearing must be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition.

(1) Any such statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena the witness for cross-examination at the hearing.

(2) Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts must be exchanged.

(c) The ALJ must exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to:

(1) Make the interrogation and presentation effective for ascertaining the truth;

(2) Avoid needless consumption of time; and

(3) Protect witnesses from harassment and undue embarrassment.

(d) The ALJ must permit the parties to conduct such cross examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the ALJ, cross-examination on matters outside the scope of direct examination must be conducted in the manner of direct examination. Leading questions may be used only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

§ 1149.51 How can I exclude a witness?

Upon motion of any party, the ALJ must order witnesses excluded from the hearing room so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of—

(a) A party who is an individual;

(b) In the case of a party that is not an individual, an officer or employee of the party appearing for the entity pro se or designated by the party's representative; or

(c) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government engaged in assisting the representative for the Government.

§ 1149.52 Will the hearing proceedings be recorded?

(a) The hearing will be recorded and transcribed. Transcripts may be obtained after the conclusion of the hearing and at a cost no greater than the actual cost of duplication.

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the authority head.

(c) The hearings will be recorded either electronically or by a court reporter. If the authority does not intend to arrange for a court reporter, you can arrange for one. If you do, you have to pay the reporter's appearance fees.

(d) Upon payment of a reasonable fee, the record may be inspected and copied by anyone, unless otherwise ordered by the ALJ.

§ 1149.53 Are ex parte communications between a party and the ALJ permitted?

Ex parte communications between a party and the ALJ are not permitted unless the other party consents to such a communication taking place. This does not prohibit a party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 1149.54 Are there sanctions for misconduct?

(a) The ALJ may sanction a person, including any party or representative, as outlined in § 1149.55, for the following:

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, and fair conduct of a hearing.

(b) Any sanction issued under this section must reasonably relate to the severity and nature of the misconduct.

§ 1149.55 What happens if I fail to comply with an order?

(a) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may:

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such a request.

(b) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(c) The ALJ may refuse to consider any motion, request, response, brief or other document which is not filed in a timely fashion.

§ 1149.56 Are post-hearing briefs required?

Any party may file a post-hearing brief; but, such briefs are not required, unless ordered by the ALJ. The ALJ must fix the time for filing such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

Subpart G—Decisions and Appeals

§ 1149.57 How is the case decided?

(a) The ALJ will issue an initial decision based only on the record. The record must contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact must include a finding on each of the following issues:

(1) Whether any one or more of the claims or statements identified in the complaint, in whole or in part, violate this part; and

(2) If you are liable for penalties or assessments, the appropriate amount of any such penalties or assessments, considering any mitigating or aggravating factors that are proven by a preponderance of the evidence during the hearing.

§ 1149.58 When will the ALJ serve the initial decision?

(a) The ALJ will serve the initial decision on all parties within 90 days after the close of the hearing, or within 90 days after the final post-hearing brief was filed.

(b) At the same time as the initial decision, the ALJ must serve a statement describing your rights if you are found liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the authority head.

(c) If the ALJ fails to meet the deadline contained in this section, he or she must notify the parties of the reason for the delay and must set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the authority head, or a motion for reconsideration of the initial decision is timely filed, the initial decision must constitute the final decision of the authority head and must be final and binding on the parties 30 days after it is issued by the ALJ.

§ 1149.59 How are penalty and assessment amounts determined?

In determining an appropriate amount of civil penalties and assessments, the ALJ and the authority head, upon

appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose.

§ 1149.60 What factors are considered in determining the amount of penalties and assessments to impose?

(a) Although not exhaustive, the following factors are among those that may influence the ALJ and the authority head in determining the amount of penalties and assessments to impose with respect to the misconduct charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements;

(2) The time period over which such claims or statements were made;

(3) The degree of your culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the cost of the investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations, especially upon the public confidence of those intended to benefit from Government programs;

(8) Whether you have engaged in a pattern of the same or similar misconduct;

(9) Whether you attempted to conceal the misconduct;

(10) The degree to which you have involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to you, the extent to which your practices fostered or attempted to preclude such misconduct;

(12) Whether you cooperated in or obstructed an investigation of the misconduct;

(13) Whether you assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of your sophistication with respect to it, including the extent of your prior participation in the program or in similar transactions;

(15) Whether you have been found, in any criminal, civil, or administrative proceeding, to have engaged in similar misconduct or dealt dishonestly with the Government of the United States or a state, directly or indirectly; and

(16) The need to deter you and others from engaging in the same or similar misconduct.

(b) Nothing in this section must be construed to limit the ALJ or the authority head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

§ 1149.61 Can a party request reconsideration of the initial decision?

(a) Any party may file a motion for reconsideration of the initial decision with the ALJ within 20 days of receipt of the initial decision. If the initial decision was served by mail, there is a rebuttable presumption that the initial decision was received by the party 5 days from the date of mailing.

(b) A motion for reconsideration shall be accompanied by a supporting brief and must specifically describe the issue and nature of each allegedly erroneous decision.

(c) Responses to a motion for reconsideration will only be allowed if it is requested by the ALJ.

(d) The ALJ will dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(e) If the ALJ issues a revised initial decision upon motion of a party, no further motions for reconsideration may be filed by any party.

(f) If the ALJ issues a revised initial decision, that decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the authority head.

§ 1149.62 When does the initial decision of the ALJ become final?

(a) The initial decision of the ALJ becomes the final decision of the NEA and binds all parties 30 days after it is issued, unless a party timely files a motion for reconsideration or timely appeals to the authority head of NEA, as set forth in § 1149.64.

(b) If the ALJ disposes of a motion for reconsideration by denying it or by issuing a revised initial decision, the ALJ's order on the motion for reconsideration becomes the final decision of NEA 30 days after the order is issued.

§ 1149.63 What are the procedures for appealing the ALJ decision?

(a) Any defendant who submits a timely answer and is found liable for a civil penalty or assessment in an initial decision may appeal the decision to the authority head by filing a notice of appeal with the authority head in accordance with this section.

(b) You may file a notice of appeal with the authority head within 30 days following issuance of the initial decision, serving a copy of the notice of appeal on all parties and the ALJ. The authority head may extend this deadline for up to an additional 30 days if an extension request is filed within the initial 30-day period and shows good cause.

(c) Your appeal will not be considered until all timely motions for reconsideration have been resolved.

(d) If a timely motion for reconsideration is denied, a notice of appeal may be filed within 30 days following such denial or issuance of a revised initial decision, whichever applies.

(e) A notice of appeal must be supported by a written brief specifying why the initial decision should be reversed or modified.

(f) The NEA representative may file a brief in opposition to the notice of appeal within 30 days of receiving your appeal and supporting brief.

(g) If you timely file a notice of appeal, and the time for filing reconsideration motions has expired, the ALJ will forward the record of the proceeding to the authority head.

§ 1149.64 What happens if an initial decision is appealed?

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

§ 1149.65 Are there any limitations on the right to appeal to the authority head?

(a) You have no right to appear personally, or through a representative, before the authority head.

(b) There is no right to appeal any interlocutory ruling.

(c) The authority head will not consider any objection or evidence that was not raised before the ALJ, unless you demonstrate that the failure to object was caused by extraordinary circumstances. If you demonstrate to the satisfaction of the authority head that extraordinary circumstances prevented the presentation of evidence at the hearing, and that the additional evidence is material, the authority head may remand the matter to the ALJ for consideration of the additional evidence.

§ 1149.66 How does the authority head dispose of an appeal?

(a) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment imposed by the ALJ in the initial decision or reconsideration decision.

(b) The authority head will promptly serve each party to the appeal and the ALJ with a copy of his or her decision. This decision must contain a statement describing the right of any person, against whom a penalty or assessment has been made, to seek judicial review.

§ 1149.67 Who represents the NEA on an appeal?

The authority head will designate the NEA's representative in the event of an appeal.

§ 1149.68 What judicial review is available?

Section 3805 of title 31, United States Code, authorizes Judicial review by the appropriate United States District Court of any final NEA decision by the authority head imposing penalties or assessments under this part. To obtain judicial review, you must file a petition with the appropriate court in a timely manner. (See paragraphs (a) through (e) of 31 U.S.C. 3805 for a description of how judicial review is authorized.)

§ 1149.69 Can the administrative complaint be settled voluntarily?

(a) Parties may make offers of compromise or settlement at any time. Any compromise or settlement must be in writing.

(b) The reviewing official has the exclusive authority to compromise or settle the case anytime after the date on which the reviewing official is permitted to issue a complaint and before the ALJ issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle the case anytime after the date of the ALJ's initial decision until the initiation of any judicial review or any action to collect the penalties and assessments.

(d) The Attorney General has exclusive authority to compromise or settle a case once any judicial review or any action to recover penalties and assessments is initiated.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate.

§ 1149.70 How are civil penalties and assessments collected?

(a) Civil actions to recover penalties or assessments must commence within 3 years after the date of a final decision determining your liability.

(b) The Attorney General is responsible for judicial enforcement of civil penalties or assessments imposed. He/she has exclusive authority to compromise or settle any penalty or assessment during the pendency of any action to collect penalties or assessments under 31 U.S.C. 3806.

(c) Penalties or assessments imposed by a final decision may be recovered in a civil action brought by the Attorney General.

(1) The district courts of the United States have jurisdiction of such civil actions.

(2) The United States Court of Federal Claims has jurisdiction of any civil action to recover any penalty or assessment if the cause of action is asserted by the government as a counterclaim in a matter pending in such court.

(3) Civil actions may be joined and consolidated with or asserted as a counterclaim, cross-claim, or set off by the government in any other civil action which includes you and the government as parties.

(4) Defenses raised at the hearing, or that could have been raised, may not be raised as a defense in the civil action. Determination of liability and of the amounts of penalties and assessments must not be subject to review.

§ 1149.71 Is there a right to administrative offset?

The amount of any penalty or assessment which has become final, or for which a judgment has been entered, or any amount agreed upon in a compromise or settlement, may be collected by administrative offset, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to you.

§ 1149.72 What happens to collections?

All amounts collected pursuant to this part must be deposited as miscellaneous receipts in the Treasury of the United States.

§ 1149.73 What if the investigation indicates criminal misconduct or a violation of the False Claims Act?

(a) Investigating officials may:

(1) Refer allegations of criminal misconduct or a violation of the False Claims Act directly to the Department of Justice for prosecution and/or civil action, as appropriate;

(2) Defer or postpone a report or referral to the reviewing official to avoid interference with a criminal or civil investigation, prosecution or litigation; or

(3) Issue subpoenas under any other statutory authority.

(b) Nothing in this part limits the requirement that NEA employees report suspected false or fraudulent conduct, claims or statements, and violations of criminal law to the NEA Office of Inspector General or to the Attorney General.

§ 1149.74 How does the NEA protect your rights?

These procedures separate the functions of the investigating official, reviewing official, and the ALJ, each of whom report to a separate organizational authority. Except for purposes of settlement, or as a witness or a representative in public proceedings, no investigating official, reviewing official, or NEA employee or agent who helps investigate, prepare, or present a case may (in such case, or a factually related case) participate in the initial decision or the review of the initial decision by the authority head. This separation of functions and organization is designed to assure the independence and impartiality of each government official during every stage of the proceeding. The representative for the NEA may be employed in the offices of either the investigating official or the reviewing official.

Dated: July 30, 2014.

India J. Pinkney,

General Counsel.

[FR Doc. 2014–19034 Filed 8–12–14; 8:45 am]

BILLING CODE 7537–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2014–0026; 4500030113]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the Warton's Cave Meshweaver as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a 12-month finding on a petition to list the Warton's cave meshweaver (*Cicurina wartoni*) as an endangered or threatened species and to designate critical habitat under the Endangered Species Act (Act) of 1973, as amended. After a review of the

best available scientific information, we find that *C. wartoni* is not a distinct species. Therefore, we find that *C. wartoni* is not a listable entity under the Act and does not warrant listing as an endangered or threatened species. As a result, we are removing this species from the candidate list. However, we ask the public to submit to us any new information that becomes available at any time.

DATES: The finding announced in this document was made on August 13, 2014.

ADDRESSES: This finding is available on the Internet at *http://www.regulations.gov* at Docket Number FWS–R2–ES–2014–0026. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite #200, Austin, TX 78758. Please submit any new information, materials, comments, or questions concerning this finding to the above street address.

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite #200, Austin, TX 78758; telephone 512–490–0057; facsimile 512–490–0974. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act (Act, 16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the Federal Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that listing the species may be warranted, the U.S. Fish and Wildlife Service (Service) make a finding within 12 months of the date of receipt of the petition. In this finding, we determine that the petitioned action is: (1) Not warranted, (2) warranted, or (3) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. We must publish these 12-month findings in the **Federal Register**.

Previous Federal Actions

The Service identified *Cicurina wartoni* as a candidate for listing in the November 15, 1994, Animal Candidate Review for Listing as Endangered or Threatened Species (59 FR 58982). Candidate species are species for which we have sufficient information on file to support a proposal to list as an endangered or threatened species, but for which preparation and publication of a proposal are precluded by higher priority listing actions. *Cicurina wartoni* was included in subsequent annual Candidate Notices of Reviews through 2013 (59 FR 58982, November 15, 1994; 61 FR 7596, February 28, 1996; 62 FR 49397, September 19, 1997; 64 FR 57534, October 25, 1999; 66 FR 54807, October 30, 2001; 67 FR 40657, June 13, 2002; 69 FR 24876, May 4, 2004; 70 FR 24870, May 11, 2005; 71 FR 53756, September 12, 2006; 72 FR 69034, December 6, 2007; 73 FR 75176, December 10, 2008; 74 FR 57804, November 9, 2009; and 75 FR 69222, November 10, 2010; 76 FR 66370, October 26, 2011; November 21, 2012, 77 FR 69994; and November 22, 2013, 78 FR 70104).

On May 11, 2004, we received a petition from the Center for Biological Diversity requesting that *Cicurina wartoni* be listed as an endangered or threatened species and that critical habitat be designated under the Act. The petition clearly identified itself as such and included the requisite identification information required at 50 CFR 424.14(a). Even though we already determined the species met the definition of a candidate species, we are required to address petitions and make the appropriate findings. We made a positive 90-day finding that the petition presented substantial information indicating that listing may be warranted, and we subsequently made a positive 12-month finding (70 FR 24869 at 24907, May 11, 2005) indicating that listing was warranted, but was precluded by higher priority listing actions, including court-approved settlements, court-ordered and statutory deadlines for petition findings and listing determinations, emergency listing determinations, and responses to litigation that continue to preclude the proposed and final listing rules for this species. The May 11, 2004, petition was consolidated with several other cases filed by the Center for Biological Diversity or WildEarth Guardians relating to petition finding deadlines. A multi-district litigation settlement agreement with these cases was approved by the court on September 9, 2011, in *In re Endangered Species Act Section 4 Deadline Litigation, No. 10–377 (EGS), MDL Docket No. 2165* (D.D.C. May 10, 2011). This not-warranted 12-month finding fulfills that requirement of the multi-district litigation settlement agreement for *C. wartoni.*

Species Information

This section summarizes the information we evaluated to determine that *Cicurina wartoni* is not a species or subspecies and cannot be listed as such under the Act, and that, therefore, it must be removed from the candidate list. Several entities of spiders referenced in this finding do not have common names. Consequently, we are using Latin names in this finding for the purposes of clarity in the genetics and taxonomy discussions. However, the use of the Latin name, *C. wartoni,* is not meant to imply that it is a valid species, but only used for clarity.

Cicurina wartoni is an eyeless, cave-endemic spider known only from a single geographic location, a privately owned, shallow cave known as Pickle Pit, in Travis County, Texas (Gertsch 1992). It is in the family Dictynidae (meshweavers), genus *Cicurina,* and subgenus *Cicurella. Cicurina* derived from surface-dwelling ancestors with eight eyes (typically), and are mostly smaller than their ancestors and are progressively losing or have lost their eyes (Gertsch 1992, pp. 75–76, 79, 97). *Cicurina wartoni* was first collected from Pickle Pit in Travis County, Texas, in 1990 by James Reddell, Marcelino Reyes, and Lee Sherrod and described by Gertsch (1992, p. 101). Gertsch recognized the species as distinct based on the epigynal (female reproductive organs used for identifying the species) morphology of a single adult female specimen. Paquin and Hedin (2004, pp. 3,239–3,240) conducted genetic studies on three other species of cave-dwelling, blind *Cicurina* meshweavers occurring in southern Travis and northern Hays Counties, Texas, to develop genetic assessment techniques for species-level identification of immature specimens of blind *Cicurina* spiders. At the time, the owners of Pickle Pit did not grant access to the researchers; consequently, specimens from this location could not be included in that study.

Paquin and Dupérré (2009, p. 55) examined a voucher specimen (an animal preserved for scientific use) from Pickle Pit at the American Museum of Natural History and, in greater detail

than previously done, redescribed the morphology of the specimen (e.g., carapace (body) length, leg length, etc.) and reillustrated the epigynum (female reproductive organs used for identifying the species). Based on this more detailed comparison, Paquin and Dupérré (2009, p. 55) suggested that *C. wartoni* should be synonymized with or considered part of *C. buwata* (no common name). Paquin and Dupérré (2009, p. 55) also suggested that *C. reddelli* (no common name) and *C. travisae* (no common name) should be synonymized with *C. buwata* because there are only minor variations in the epigynum of these species and they occur in close proximity to one another (Paquin and Dupérré 2009, pp. 99, 101).

Access to Pickle Pit was granted on November 22, 2011, March 26, 2012, and April 26, 2013. During those site visits, three immature blind *Cicurina* specimens were collected. Hedin (2014, entire) reevaluated the taxonomic status of *Cicurina wartoni.* Hedin (2014, pp. 2, 3, 5–6, 8, 12) employed several rigorous analytical methods (genetic and morphological) to test species limits. Hedin (2014, entire) analyzed multiple genes (one mitochondrial gene and eight nuclear genes) and the reproductive morphology. This study compared specimens from Pickle Pit to specimens from 27 regional caves, plus a handful of samples from outside the region of interest. Based on this analysis, Hedin (2014, pp. 7–8) found that *C. wartoni* is not a distinct species. Rather, Hedin (pp. 8–9) recommends that *C. wartoni, C. travisae,* and *C. reddelli* should all be considered a single taxonomic entity until formal taxonomic changes can be published.

We requested a peer review of Hedin (2014) from five individuals with expertise in arachnology, genetics, or cave ecology to assess whether the conclusions were scientifically sound. We received three responses, which all supported the conclusions of Hedin (2014). In addition, we conducted internal Service review by our Conservation Genetics Laboratory, who supported the conclusions of Hedin (2014).

Evaluation of Listable Entity

Under the Act, the term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature'' (16 U.S.C. 1532(16)).

Based on our review of the best available scientific and commercial information, the taxonomic entity that was known as *Cicurina wartoni* is not a distinct species (Hedin 2014, pp. 7–8). Therefore, we conclude that *C. wartoni* does not meet the definition of a species under section 3(16) of the Act. Additionally, invertebrates are precluded by statute from distinct population segment consideration. Therefore, we conclude that the petitioned entity does not constitute a listable entity and cannot be listed under the Act.

Finding

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the Federal Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that listing the species may be warranted, we make a finding within 12 months of the date of receipt of the petition. In this finding, we determine that the petitioned action is: (1) Not warranted, (2) warranted, or (3) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Wildlife and Plants. Under the Act, a species is defined as including any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532).

Based on the best scientific and commercial information available, *Cicurina wartoni* does not meet the definition of a ''species'' and is, therefore, not a listable entity under the Act because *Cicurina wartoni* is not itself a valid species or subspecies. As an invertebrate, *C. wartoni* cannot be considered under the Act's distinct population segment provisions. Therefore, we find *C. wartoni* is not a valid taxonomic entity and does not meet the definition of a species or subspecies under the Act, and further does not warrant listing under the Act. As a result, we are removing this species from the candidate list.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* at Docket Number FWS–R2–ES–2014–0026 and upon request from the Austin Ecological Services Field Office (see **ADDRESSES**).

Authors

The primary authors of this notice are staff members of the Austin Ecological Services Field Office.

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 24, 2014.

Stephen Guertin,

Acting Director, Fish and Wildlife Service.

[FR Doc. 2014–19089 Filed 8–12–14; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 79, No. 156

Wednesday, August 13, 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

Submission for OMB Review; Comment Request

August 7, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by September 12, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Certified State Mediation Program.

OMB Control Number: 0560–0165.

Summary of Collection: The USDA Agricultural Medication Program (AMP) is mandated by Subtitle A and B of Title V of the Agricultural Credit Act of 1987 (Pub. L. 100–233), as amended. Under the program, USDA makes grants to state-designated entitles that provide mediation to agricultural producers, their lenders and others that are directly affected by the action of certain USDA agencies. In mediation, a trained impartial mediator helps participants review and discuss their conflicts, identify options to resolve disputes and agree on solutions. The program is now being administered by the Farm Service Agency (FSA).

Need and Use of the Information: FSA will collect information to determine whether the State meets the eligibility criteria to be recipients of grant funds, and secondly, to determine if the grant is being administered as provided by the Act. Lack of adequate information to make these determinations could result in the improper administration and appropriation of Federal grant funds.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 36.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 360.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–19108 Filed 8–12–14; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 7, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Foreign Agricultural Service

Title: Pima Agriculture Cotton Trust Fund

OMB Control Number: 0551–0044

Summary of Collection: Section 12314 of the Agricultural Act of 2014 (Pub. L. 113–79) authorizes distribution out of the Pima Agriculture Cotton Trust Fund in each of calendar years 2014 through 2018, payable to qualifying claimants. The Trust Fund is comprised of funds transferred from the Commodity Credit Corporation in annual amounts equal to $16,000,000 for each of calendar years 2014 through 2018, to remain available until expanded. The purpose of the Trust fund is to reduce the injury to domestic manufacturers resulting from

tariffs on cotton fabric that are higher than tariffs on certain apparel articles made of cotton fabric.

Need and Use of the Information: Distributions out of the Trust Fund is payable to (1) One or more nationally recognized associations established for the promotion of pima cotton for use in textile and apparel goods; (2) yarn spinners of pima cotton that produce ring spun cotton yarns in the United States; and (3) manufacturers who cut and sew cotton shirts in the United States who certify that they used imported cotton fabric during calendar year 2013. Eligible claimants for a distribution from the Pima Cotton Trust Fund are directed to submit a notarized affidavit. The Foreign Agriculture Service (FAS) will use the information provided in the affidavits to certify the claimants' eligibility and to authorize payment from the Pima Cotton Trust Fund. If eligible claimants do not submit an affidavit with the required information they will not be entitled to a distribution from the Pima Cotton Trust Fund.

Description of Respondents: Business or other-for-profit

Number of Respondents: 7

Frequency of Responses: Recordkeeping, Reporting: Annually

Total Burden Hours: 14

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–19109 Filed 8–12–14; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2011–0009]

Implementation of FSIS Traceback and Recall Procedures for Escherichia coli O157:H7 Positive Raw Beef Product

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice: Response to comments; planned implementation for traceback and recall procedures.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing that it will implement new traceback procedures when FSIS or another Federal or State agency finds raw ground beef or bench trim presumptive positive for *Escherichia coli* O157:H7. FSIS is also announcing that it will begin requesting an establishment to recall product if an establishment was the sole supplier of beef manufacturing trimmings source materials for ground beef product that FSIS or another Federal or State agency finds positive for *E. coli* O157:H7, evidence suggests that the contamination most likely occurred at the supplier establishment, and a portion of the product from the originating source lot produced by the supplier establishment was sent to other establishments. FSIS is also clarifying circumstances when the Agency will ask suppliers of product used in bench trim to recall the product. FSIS is also announcing the availability of updated guidance documents. Finally, FSIS is responding to comments on the May 7, 2012, **Federal Register** notice, ''Changes to FSIS Traceback, Recall Procedures for *Escherichia coli* O157:H7 Positive Raw Beef Product, and Availability of final Compliance Guidelines''.

DATES: Beginning October 14, 2014, FSIS Enforcement, Investigations, and Analysis Officers (EIAOs) will conduct traceback investigations described in this notice. Additionally, beginning October 14, 2014, FSIS will implement new recall procedures described in this notice.

FOR FURTHER INFORMATION CONTACT: Daniel L. Engeljohn, Ph.D., Assistant Administrator, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture; Telephone: (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

On May 7, 2012, FSIS published a **Federal Register** notice (77 FR 26725) announcing new traceback procedures that it intended to implement when FSIS or other Federal or State agencies find a presumptive positive for *Escherichia coli* (*E. coli*) O157:H7 in raw ground beef or bench trim. FSIS explained that these new procedures would enable FSIS to better determine whether the establishments that produced the source materials for contaminated product have produced other product that may not be microbiologically independent from the contaminated product. The Agency also announced its intention to request that an establishment recall product if the establishment was the sole supplier of beef manufacturing trimmings source materials for ground product that FSIS or other Federal or State agencies find positive for *E. coli* O157:H7, evidence suggests that contamination most likely occurred at the supplier establishment, and a portion of the product from the originating source lot from the supplier establishment was sent to other establishments (77 FR 26725). Finally, this notice announced the availability of compliance guidelines concerning establishment sampling for Shiga toxin-producing *E. coli* (STEC) organisms or virulence markers and compliance guidelines for *STEC* sampled and tested labeling claims.

FSIS has summarized and responded to the comments on the **Federal Register** notice and guidance below. In response to the comments, FSIS has not made any significant changes to the policies, procedures, or guidance announced in 2012. However, FSIS has updated the policies, procedures, and guidance to reflect the changes that apply to *E. coli* O157:H7 and would appropriately apply to non-O157 STEC.

On September 20, 2011, FSIS declared six STEC organisms, in addition to *E. coli* O157:H7, adulterants in raw non-intact beef product or raw intact beef product intended for use in raw non-intact beef product (76 FR 58157). On June 4, 2012, FSIS started testing beef manufacturing trimmings for these six non-O157 STEC organisms. FSIS is gathering information to assess the economic effects of testing for the non-O157 STECs in raw ground beef components and ground beef. As noted in the May 31, 2012 **Federal Register**, when the Agency completes the updated analysis, FSIS will announce its availability and request comments on the analysis (77 FR 31976). As FSIS also stated in the May 31, 2012 Notice, the Agency will then assess comments and make any necessary changes before finalizing the economic analysis and before making a determination on expanding FSIS testing to include ground product and raw ground beef components other than beef manufacturing trimmings. Below, FSIS has discussed how FSIS would implement the traceback and recall policies based on non-O157 STEC positive results in ground beef and bench trim should FSIS start testing these products for the adulterant non-O157 STEC.

FSIS will use high event period (HEP) criteria in determining whether a systemic breakdown of process control at a slaughter establishment led to cross-contamination between multiple production lots. A systemic breakdown of process control and the resulting contamination would create insanitary conditions that may affect the disposition of intact lots of beef in addition to beef manufacturing trimmings and could lead to more product becoming adulterated than the product found positive for the pathogen. As is discussed below, FSIS has revised the FSIS Compliance Guideline For Establishments Sampling Beef Trimmings for Shiga Toxin-Producing *Escherichia coli* (STEC) Organisms or

Virulence Markers (*http://www.fsis.usda.gov/wps/wcm/connect/e0f06d97-9026-4e1e-a0c2-1ac60b836fa6/Compliance_Guide_Est_Sampling_STEC_0512.pdf?MOD=AJPERES*) to include the six additional adulterant STEC such that if an establishment's sample testing shows that it has experienced a HEP, then the establishment has likely experienced a HEP for non-O157 STEC as well as for *E. coli* O157:H7. Similarly, FSIS has revised the *Compliance Guideline for E. coli O157:H7 Sampled and Tested Claims for Boneless Beef Manufacturing Trimmings (Trim)* (*http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index/!ut/p/a1/04_Sj9CPykssy0xPLMnMz0vMAfGjzOINAg3MDC2dDbwMDIHQ08842MTDy8_YwMgYqCASWYG_paEbUEFYoL-3s7OBhZ8xkfpxAEcDQvq9iLDAqMjX2TddP6ogsSRDNzMvLV8_Ijk_tyAnMzEvOVU3vTQzJbUYKJ6SWqEfrh-F10B_E3QFWHwMUYDbSwW5oRFVPmnBnumKigBJZmxC/#Ecoli*) to address the data that FSIS would need to see to approve labels bearing statements that product has been sampled and tested for non-O157 STEC, in addition to *E. coli* O157:H7.

Final Traceback Policy

FSIS will implement the traceback procedures announced in the May 7, 2012 **Federal Register** on October 14, 2014. Under these new traceback procedures, Enforcement, Investigations, and Analysis Officers (EIAOs) will conduct traceback investigations at establishments that produced the *E. coli* O157:H7 presumptive positive product and at suppliers that provided source materials for the ground beef or bench trim that FSIS or other Federal or State agencies find presumptive positive. These traceback investigations will begin as soon as possible in response to presumptive positive results and supplier information from the producing establishment. During these investigations, EIAOs will gather relevant information about the production of the product, including use of antimicrobials and prevention of cross-contamination, sanitary conditions, and relevant purchase specifications.

Furthermore, as part of their traceback investigations, EIAOs will review slaughter establishment test results to determine whether the establishment has experienced a HEP.

HEPs in beef manufacturing trimmings at slaughter establishments are periods in which the establishment experiences a high percentage of positive results for *E. coli* O157:H7 or Shiga toxin-producing *E. coli* (STEC) organisms or virulence markers in beef manufacturing trimmings samples from production lots containing the same source materials. In this situation, the beef manufacturing trimmings were produced from one or more carcasses slaughtered and dressed consecutively or intermittently within a defined period of time (e.g., shift).

There are two types of HEP that may indicate out-of-control situations in the establishment's production process. A HEP may indicate an event in which some specific occurrence or event causes a clustering of STEC organisms or virulence markers that indicate contamination in product, or a HEP may mean that a systemic breakdown of the slaughter dressing operation has occurred and has created an insanitary condition that may be applicable to all parts of the beef carcass (e.g., primal cuts in addition to the beef manufacturing trimmings and other raw ground beef and patty components). If the establishment has developed its own supportable HEP criteria, then the EIAOs will determine whether it has experienced a HEP based on the establishment's HEP criteria and will determine whether the establishment's HEP criteria are appropriately supported. Accordingly, FSIS recommends that as part of their supporting documentation for their hazard analysis (9 CFR 417.5(a)), establishments document the criteria they use to identify HEPs. If the establishment has not developed its own HEP criteria, EIAOs will determine whether the establishment has experienced a HEP based on the FSIS criteria discussed below.

In the May 7, 2012 **Federal Register**, FSIS provided criteria for identifying a localized out-of-control event in which some specific occurrence caused a clustering of STEC contamination in product. The event would not indicate, necessarily, a severe or global systemic breakdown or inherent weakness of the process or food safety system. During a localized HEP, intact primal and subprimal cuts would not be affected if such cuts routinely undergo a complete pathogen reduction treatment on all exposed surfaces.

FSIS also provided criteria for identifying a systemic HEP that indicates a systemic breakdown or inherent weakness of the process or food safety system. Virtually all raw beef product produced during the period of the systemic HEP would likely be affected, regardless of whether antimicrobial treatments were applied such as to primal cuts.

FSIS is not making any changes to the HEP criteria described in the May 7, 2012 **Federal Register**. The final HEP criteria are:

1. For a local HEP: 3 or more STEC organism (or virulence marker) positive results out of 10 consecutive samples from production lots containing same-source materials; and

2. For a systemic HEP:

A. 7 or more STEC organism (or virulence marker) positive results out of 30 consecutive samples from production lots containing same-source materials.

B. At establishments that test more than 60 samples per day, from production lots containing same-source materials, the number of *E. coli* O157:H7 (or STEC organism or virulence marker) positive samples below within the samples tested in the table:

Unacceptable # positives	Within samples tested
8	61
9	74
10	86
11	100
12	113
13	127
14	141
15	155
16	169
17	184
18	198
19	213
20	228

The above criteria are based on high degrees of confidence (establishing sufficient statistical evidence) that the process percentage exceeded 5 percent during some period. The 5 percent represents a value that is definitively higher than the expected percent positive found when an establishment is operating under good manufacturing practices. For the systemic HEP based on daily testing of more than 60 samples [1] and the local HEP guidance, FSIS used close to 99 percent confidence for establishing sufficient statistical evidence.[2] For the systemic short-term HEP (based on 30 samples), FSIS selected about 99.95 percent confidence for asserting sufficient statistical evidence. The reason for this high degree of confidence is that FSIS wanted to have a short-term HEP

[1] FSIS selected a minimum of 60 samples for identifying daily HEP because the purpose of this criterion is to determine inconsistencies over a large amount of product produced during the day. The other two criteria apply for less product or shorter periods. FSIS identified the day-specific criterion for large volume establishments that often test more than 100 lots a day.

[2] For the local HEP involving 3 positive results from 10 samples, the confidence is 98.849644%, which FSIS considers to be close to 99%.

criterion to help establishments identify periods of serious processing problems.

As FSIS explained in the May 7, 2012 **Federal Register**, based on all the information gathered during traceback investigations, EIAOs will present findings to the District Manager on which to determine whether adulterated product has entered commerce. The EIAO will also make recommendations concerning whether regulatory and enforcement actions are warranted. The District Manager will then determine whether adulterated product entered commerce; if it has, whether to contact the FSIS Recall Management and Technical Analysis Staff; and whether enforcement actions are appropriate.

At this time, EIAOs will perform the traceback procedures at establishments that produce raw ground beef products and bench trim products that FSIS or other Federal or State agencies find presumptive positive for *E. coli* O157:H7 and EIAOs will perform the traceback procedures at establishments that supply the source materials for these products. Should FSIS begin testing raw ground beef products and bench trim products for the six adulterant non-O157:H7 STEC, EIAOs would perform the traceback procedures at establishments that produce raw ground beef and bench trim products that FSIS or other Federal or state agencies find presumptive positive for any STEC organism that FSIS has declared to be an adulterant and EIAOs would perform traceback procedures at the supplying establishments that provided source materials for these products. These traceback procedures will allow FSIS to identify problems that occurred at the establishments that produced the non-O157 STEC positive product and at their suppliers on a timely basis.

As is explained in the May 7, 2012 **Federal Register**, most establishments use testing that includes an enrichment step followed by differential screening specific to STEC organisms, particularly *E. coli* O157:H7 or their associated virulence markers (77 FR 26728). Positive results during screening tests require further testing to detect *E. coli* O157:H7. If the establishment does not perform the additional testing, it should treat lots that test positive in screen tests as positive for *E. coli* O157:H7. Similarly, FSIS considers these results positive for STEC. STEC includes *E. coli* O157:H7 and the non-O157 STEC. If establishments test beef manufacturing trimmings for *E. coli* organisms and virulence markers rather than for specific STEC organisms, and their results indicate that they have experienced a HEP based on the HEP criteria above, they will have likely experienced a HEP for *E. coli* O157:H7 and the non-O157 STEC. Therefore, during traceback investigations, if EIAOs determine that a slaughter establishment has experienced a HEP based on establishment results for beef manufacturing trimmings and based on the establishment's HEP criteria, or based on the FSIS HEP criteria, EIAOs will likely find that the establishment has experienced a HEP for non-O157 STEC in addition to *E. coli* O157:H7. The HEP criteria above would apply to non-O157 STEC, as well as *E. coli* O157:H7. The actions EIAOs will take in response to finding that an establishment has experienced a HEP for non-O157 STEC would be the same they would take in response to an *E. coli* O157:H7 HEP.

This notice imposes no new requirements for establishments related to HEPs. The new EIAO instructions and investigations are only intended to improve and expedite FSIS traceback procedures. As FSIS explained in the May 7, 2012 **Federal Register**, EIAOs do not conduct this type of traceback investigation now until they conduct Food Safety Assessments (FSAs). FSAs are scheduled approximately 30 days after the confirmed positive results become available, so FSAs are much later than the traceback investigations EIAOs will now conduct. As noted above, the new traceback investigations will begin as soon as possible in response to presumptive positive results. Also, during FSAs, EIAOs do not ask all the focused questions that they will ask as part of this new procedure. Finally, EIAOs do not currently evaluate whether an establishment has experienced a HEP when performing an assessment (77 FR 26727).

Recall Policy

FSIS will also implement the recall procedures announced in the May 7, 2012 Notice on October 14, 2014. Under these procedures, FSIS will request that supplier establishments recall product if:

(1) FSIS or another Federal or State agency finds raw ground beef positive for *E. coli* O157:H7 at a grinding establishment;

(2) FSIS determines that *E. coli* O157:H7 introduction, such as cross-contamination, was unlikely to have occurred at the grinding establishment where the sample was taken (based on FSIS's assessment of the grinding establishment's handling practices);

(3) FSIS determines that the grinding establishment did not combine material from multiple source lots to create the lot of product that tested positive;

(4) After conducting traceback to identify the slaughter and beef manufacturing trimmings fabrication supplier that provided the sole source material, FSIS determines that the supplier or downstream users split the implicated lot before sending it to the establishment where the positive sample was taken; and

(5) Some portion of the split lot sent to the grinder was sent into commerce for further processing into product that does not receive a full lethality treatment to eliminate *E. coli* O157:H7 in a federally inspected establishment.

If all of the foregoing occurs, FSIS will request the establishment to initiate a recall from the slaughter or beef manufacturing trimmings supplier establishment.

At this time, when the criteria listed above occur, the recall procedures will apply to suppliers of materials of raw ground beef products that FSIS or another Federal or State agency finds positive for *E. coli* O157:H7. Should FSIS begin testing ground beef for the six non-O157:H7 STEC that are adulterants, and the criteria listed above occur, those recall procedures would apply to suppliers of materials of raw ground beef products that FSIS or another Federal or State agency finds positive for any of the STEC organisms that FSIS has declared an adulterant. Contamination with any of these STEC organisms is most likely to occur at the supplying slaughter establishment, so it is appropriate that the Agency request a recall of any source materials still in commerce if a slaughter establishment was the sole supplier of source materials for ground product that FSIS or another Federal or State agency finds positive for these STEC organisms. In addition, these recall policies and procedures are appropriate because STEC organisms are enteric pathogens. Therefore, contamination may occur during the slaughter process, from transfer of contamination from the hides, hooves, and gut of cattle. Contamination may occur through cross-contamination at the grinder; however, if there is no evidence of cross-contamination at the grinder, contamination most likely occurred at the slaughter or beef manufacturing trimmings establishment (77 FR 26728).

FSIS requested comments on costs that would result from this recall policy but did not receive specific comments on this issue. As explained in the May 7, 2012 **Federal Register**, had this recall policy been in place, FSIS may have requested 29 additional recalls in the

two year period between January 1, 2009 and December 31, 2010, if suppliers had split their lots and sent source materials to other establishments in addition to the grinder where FSIS found the positive source material.[3] Any additional recalls under these circumstances are likely to better prevent the public from consuming adulterated product (77 FR 26727). Removing from commerce source materials that may be contaminated with STEC organisms is critically important. This new recall policy will better protect the public from consumption of STEC contaminated product because it will better ensure that source materials that are contaminated with STEC organisms are removed from commerce.

FSIS samples beef manufacturing trimmings and most other raw ground beef components at the slaughter establishment. Therefore, if FSIS finds a positive in these products, it does not have to trace product back to a different slaughter supplier establishment because all the source materials are typically from the slaughter establishment that produced the positive product. However, FSIS samples ''bench trim'' at establishments that did not slaughter the cattle used to produce the source materials. Bench trim materials are materials that the receiving establishment uses as entire cuts to produce nonintact product or uses to derive trimmings for use in non-intact product.

When FSIS finds bench trim positive, FSIS does not typically request the recall of source materials from suppliers of the bench trim. In many cases, receiving establishments use primal or subprimal products as bench trim in their entirety to produce non-intact product. In this situation, the primal or subprimal products or trimmings would typically constitute an independent lot. Therefore, if FSIS finds the subprimal or primal product, or trim derived from the subprimal or primal product, positive for *E. coli* O157:H7, FSIS would not typically request a recall from the supplier slaughter establishment because there would likely be no product to recall related to the primal or subprimal product. Also, based on FSIS's experience with bench trim sampling, bench trim is usually combined with multiple lots at the grinding establishment. So again, FSIS would not request a recall at the supplier establishment in this situation.

Bench trim is typically primal or subprimal product that the slaughter establishment did not intend for use in ground or other non-intact, raw product. Many slaughter establishments maintain information on their Web sites or provide information to receiving establishments explaining that this product is not intended for grinding or use in other non-intact, raw product. However, receiving establishments may use some portion of the primal or subprimal product to produce non-intact, raw product. When they do so, many of these receiving establishments employ additional antimicrobial treatments to the primal or subprimal product or test the non-intact product or trimmings derived from the primal or subprimal product.

If FSIS finds the bench trim product positive and the slaughter establishment did not intend the primal or subprimal product to be used in non-intact product, the positive result does not necessarily represent a problem with the slaughter establishment's food safety system. The slaughter establishment designated the primal or subprimal product for intact use and its food safety system likely addressed the hazards associated with intact product, rather than non-intact product.

However, should FSIS find bench trim positive, it would conduct the type of traceback investigation that is described in this notice and activities, including sampling and testing of primal and subprimal product, to verify that the establishment is meeting all HACCP requirements. In most cases, FSIS would not request that the slaughter establishment recall subprimal or primal product because the positive product was not intended for grinding or other non-intact use.

If data show that the slaughter establishment experienced a HEP, FSIS may request a recall. If FSIS finds that the slaughter establishment experienced a high event period and did not take action to reduce possible *E. coli* O157:H7 contamination in primal and subprimal products; that the slaughter establishment was the sole supplier for the bench trim; that contamination did not occur at the receiving bench trim establishment; and that the supplier co-mingled primal or subprimal cuts and then sent some of the same lot used to produce the bench trim that FSIS found positive to additional establishments, FSIS would ask the slaughter supplier establishment to recall the product.

Final Guidance

The May 7, 2012 **Federal Register** notice announced the availability of guidance, *FSIS Compliance Guideline for Establishments Sampling Beef Trimmings for Shiga Toxin-Producing Escherichia coli (STEC) Organisms or Virulence Markers* and *Compliance Guideline for E. coli O157:H7 Sampled and Tested Claims for Boneless Beef Manufacturing Trimmings (Trim).*

FSIS has revised the establishment sampling guidance to reflect the Agency's recent policy developments relating to the six adulterant non-O157 STECs. As is discussed above, most establishments generally test for pathogenic *E. coli* organisms and virulence markers rather than for specific STEC organisms. Therefore, the criteria that FSIS has provided in the guidance are general and would indicate that the establishment may be experiencing problems controlling any of the STEC organisms. The guideline is meant to help slaughter establishments develop and implement sampling and testing programs for STECs in beef manufacturing trimmings. The HEP guidance will be most useful to slaughter and fabrication establishments that manufacture 50,000 pounds or more of beef manufacturing trimmings daily because they are likely to conduct sufficient testing on same source beef manufacturing trimmings to be able to determine whether a HEP has occurred. Smaller volume slaughter and fabrication establishments can also use the HEP criteria in the guidance, particularly those that take 10 or 30 samples. Non-slaughter establishments will not know whether problems with slaughter and dressing procedures have contributed to a HEP because they do not have the necessary information from the establishment that slaughtered the cattle. As is stated in the May 7, 2012 **Federal Register**, FSIS recommends that slaughter and fabrication establishments conduct sampling and testing of beef manufacturing trimmings at a frequency to find evidence of contamination surviving the slaughter and dressing operation (optimally every production lot) to best protect against adulterated product entering commerce. Establishment verification testing results on beef manufacturing trimmings are likely the best available information a slaughter establishment can use to determine the effectiveness of its slaughter and dressing operation (77 FR 26730).

FSIS also has revised the guidance to include a more detailed explanation of FSIS's HEP criteria, to make clear that establishments have flexibility in designing and supporting HEP criteria that is different from FSIS's HEP criteria, and to cite *askFSIS* as a resource for providing feedback to establishments on the design of HEP criteria that is different than FSIS's criteria.

[3] Data are from the Policy Analysis Staff, the Office of Policy and Program Development, FSIS.

FSIS recommends that establishments identify HEP criteria so they can determine whether they need to withhold product from commerce when a HEP has occurred, because a HEP may indicate more widespread adulteration of product, beyond the product found positive. If establishments identify and respond to HEPs, they will minimize the chance that they will release adulterated product into commerce.

The sampled and tested claims guidance continues to provide information on the use of labels bearing an FSIS sketch approved *E. coli* O157:H7 sampled and tested claim on beef manufacturing trimmings. As is explained in the guidance, such special labeling claims are voluntary. An establishment may use such claims when it demonstrates that they are truthful and not misleading (9 CFR 317.8(a)). FSIS must approve such claims before the establishment may use them on labels (9 CFR 317.4(a)). FSIS has updated the guidance to recognize that establishments may want to submit a request for a labeling claim stating that product has been tested for the six adulterant non-O157:H7 STEC in addition to *E. coli* O157:H7. In the final guidance, FSIS has explained that the Agency would need to see the same type of information to approve sampled and tested claims for the other adulterant STEC organisms as it would need to see for sampled and tested claims concerning *E. coli* O157:H7.

As is explained in the May 7, 2012 **Federal Register**, this guidance document addresses label claims that are not intended to be displayed to consumers. FSIS may approve STEC organisms sampled and tested claims on beef manufacturing trimmings that goes to, for example, a retailer who purchases the beef manufacturing trimmings for grinding. However, FSIS will not approve such a label claim for display to consumers because it may be misleading to them by suggesting that the end product is free of pathogens or may not need to be cooked thoroughly.

These labeling claims will provide receiving establishments or retailers with information regarding the sampling and testing of beef manufacturing trimmings for STEC organisms conducted by supplier establishments.

In order for a sampled and tested claim to be truthful and not misleading, the establishment making the claim must have incorporated into its HACCP systems measures designed to control for the STEC organisms addressed in the claim, and it must use sampling and testing methodologies that are designed to verify the effectiveness of those measures.

Plans for Future Study

The May 7, 2012 **Federal Register** notice stated that FSIS intends to conduct a study to test product from unopened containers or purge material (that is, remaining liquid, fat, and meat particles in containers or combo bins after beef manufacturing trimmings contents have been removed) from suppliers' product for *E. coli* O157:H7 to identify the source of *E. coli* O157:H7 positive raw ground beef when material from multiple suppliers was used to create the sampled ground beef that FSIS has found positive for *E. coli* O157:H7.

Based on research, FSIS has concluded that source traceback by testing purge material cannot be accomplished because of the insufficiency of purge material available for testing purposes. At this time, FSIS is not starting a study on unopened packages to identify the source of *E. coli* O157:H7 positive raw ground beef when material from multiple suppliers was used to create the positive product. However, FSIS continues to believe that there may be merit in pursuing this type of study and will further explore whether analyzing unopened packages will assist FSIS to effectively identify suppliers of STEC positive products. Based on the results of these findings and the availability of necessary resources, FSIS may conduct this study in the future. FSIS will also continue to review available data related to multiple sources of ground beef products.

The May 7, 2012 **Federal Register** also stated that the Agency intends to determine whether it can make better use of the results of establishment (versus FSIS) testing for *E. coli* O157:H7 and other microorganisms and other data that establishments may collect to evaluate their sanitary dressing procedures. FSIS requested comment on how the Agency could better evaluate this data and use it to inform establishments that problems may be developing or to advise establishments to take action to prevent the creation of insanitary conditions or the production of adulterated product in the future.

FSIS did not receive any comments on this issue. As noted in the May 7, 2012 **Federal Register**, inspection program personnel review establishment test results on a weekly basis (FSIS Directive 5000.2). FSIS intends to issue clarifying instructions to these personnel to look for increasing positive results that should be raised to the establishment's attention. For example, FSIS intends to revise the directive to instruct inspection program personnel to review the current results of any testing that the establishment has performed and compare them to the previous 30-days' results to determine whether an adverse trend is developing. Through this review and these clarifying instructions, FSIS personnel may be better able to advise establishments that problems may be developing. Similarly, establishments need to assess their verification testing results on a regular basis to ensure that their food safety systems effectively address hazards, including the STEC organisms.

Comments and Responses

FSIS received comments from five industry and consumer organizations in response to the May 7, 2012 **Federal Register** notice. Some consumer groups and industry supported the HEP guidance. Following is a discussion of these comments and FSIS's responses.

Recall and Traceback Procedures

Comment: Two industry organizations commented that FSIS should not take samples of ground product produced from sole source materials for *E. coli* O157:H7 testing. To reduce costs of recalls, commenters suggested alternative FSIS sampling schemes. For example, one commenter stated that if the grinder combines product from multiple suppliers, FSIS should sample the product at the suppliers, not the grinder. Similarly, another commenter stated that if the product to be sampled is from a single source supplier, the sample should be collected at the supplying establishment, not the grinder.

Response: The Agency conducts routine sampling and testing for *E. coli* O157:H7 at all establishments that produce raw ground beef in order to ensure that all such establishments implement their own procedures to control for this pathogen. FSIS intends to continue collecting and testing samples at all establishments that produce raw ground beef product to verify that they have controls necessary to address *E. coli* O157:H7. As is noted above, FSIS may begin analyzing ground beef samples for non-O157 STEC in the future.

In response to these comments, FSIS is assessing whether it can routinely identify which grinders grind product from sole suppliers on a consistent basis as a defined practice in their food safety system, and whether it would be appropriate to reduce Agency sampling and testing at such establishments.

FSIS will continue to collect samples at slaughter establishments that produce beef manufacturing trimmings for use in ground beef or other non-intact products and will continue to analyze these

samples for *E. coli* O157:H7 and the adulterant non-O157 STEC. Similarly, FSIS will continue to collect samples of other raw ground beef components and to analyze them for *E. coli* O157:H7. In the future, FSIS may analyze samples of these products for the non-O157 STEC also. FSIS samples raw ground beef components to ensure that producers also have controls necessary to address STEC organisms. It is necessary that FSIS collect and analyze samples at both grinding processing establishments and at supplying establishments to verify that all establishments maintain adequate controls to address STEC organisms in their food safety systems.

Comment: An industry organization wanted to know how FSIS would complete the traceback review and asked what records would FSIS review to determine whether the recall criteria discussed in the **Federal Register** notice apply. Another industry organization stated that the EIAO's traceback methodology should be made available to all stakeholders.

Response: FSIS will review FSIS and establishment testing records, establishment lotting records, and supplier information to determine what product may be affected. FSIS will issue instructions to its field personnel on how to determine whether introduction of *E. coli* O157:H7 or cross-contamination likely occurred at the grinder. The instructions to the field personnel will include the criteria FSIS personnel are to use to determine whether product should be recalled. Information concerning Agency thinking for instructions to FSIS field personnel is at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register/federal-register-notices/notices-2010/!ut/p/a1/jZBBC4JAEIV_Sz9AZlZF9GgLlpaKRLbtJZZabcFUVDr061PqYiU5p5nH93i8AQ4MeCnuKhedqkpRDDe3TpigRRyKQey5HvqR4aV2tCJokh44jgCHDECaxBtK0Y6Mmf6JcfGfP5gRoDchDXPgteiumiqzClgmL7IRhdbIXLWdbL4Vraw6dZYtsPei6UgQDsDHib1IhsSduQ4iA2PzE_jxkhcw3bm-7dlju3R85S6eyWLScQ!!/?1dmy&current=true&urile=wcm%3apath%3a/fsis-archives-content/internet/main/newsroom/meetings/past-meetings/ct_index202.* FSIS provided this information during the March 2010 public meeting on traceback activities.

FSIS will instruct EIAOs to consider the following:

1. Was the supplier a sole supplier?
2. Was the supplied product beef manufacturing trimmings, coarse ground, or another raw ground beef component?
3. Are there data (e.g., testing results) to indicate that contamination likely did not occur at the receiving establishment?
4. Did the supplier send part of the same lot that was used to produce the positive product to another establishment?

If the answer to all of these questions is yes, FSIS will instruct EIAOs to inform the District Office that there is evidence that adulterated product is in commerce.

Instructions to FSIS field personnel to conduct traceback from the grinder or bench trim establishment will include asking a series of questions designed to identify all source materials and potential suppliers of beef components used as source materials in the production of the sampled lot of ground beef or bench trim. When finalized, these instructions will be available on the FSIS Web site where the public may access the information.

Comment: While the proposed changes to the recall policy address product from a sole-source supplier, two consumer groups encouraged FSIS to continue to work towards developing improved traceback procedures for product from multiple suppliers.

Response: As is explained above, FSIS intends to further explore if analyzing unopened packages will assist FSIS to effectively identify suppliers of STEC positive products. Any such methodology likely would consider whether the grinding or bench trim establishment has its own verification program that includes testing of these source materials.

Comment: An industry organization commented that FSIS should verify that grinders maintain accurate recordkeeping, so that FSIS can identify the actual supplier of the contaminated product. This commenter stated that grinders need to maintain information that links the supplier of the raw materials to the sampled lot. This commenter also stated that the Agency should routinely verify that grinders maintain adequate records rather than wait until conducting a traceback investigation.

Response: Inspection program personnel collect information about the source materials and about the suppliers at the time they sample ground beef or bench trim at official establishments. Additionally, FSIS has made available compliance guidelines, *Sanitation Guidance for Beef Grinders,* that provides examples of good recordkeeping for grinders and includes recommendations that they maintain information about suppliers of source materials used in the manufacture of ground beef. The compliance guideline may be accessed at the following link: *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index.*

Finally, FSIS intends to publish a proposed rule to specify the information concerning suppliers and source materials that establishment and retail grinders would be required to maintain. Should this rule become final, FSIS would issue instructions to inspectors to verify that establishments maintain required records.

Comment: One industry organization commented that recall determinations should be made after intensive investigations are carried out by the establishment where the positive result occurred and by FSIS. In addition, the organization recommended that the Agency's recall policy include a provision for FSIS and an establishment to agree on what product would be implicated by a positive finding before the sample is even taken. The commenter stated that many recent recalls resulted not from the failure to hold any product, but from the failure to hold all the implicated product.

Response: Establishments are now required to maintain control of all product that FSIS samples for adulterants, including ground beef that FSIS samples and tests for *E. coli* O157:H7 and beef manufacturing trimmings that FSIS samples and tests for STEC organisms (77 FR 73401; Dec. 10, 2012). Therefore, FSIS verifies that establishments maintain control of raw beef product that FSIS samples and tests for STEC organisms.

Establishments are responsible for defining the sampled lot. FSIS has informed establishments that they should have a supportable basis for determining the microbiological independence of one production lot of product from another, particularly when same source materials may be included in multiple product lots. In the ''Compliance Guideline For Establishments Sampling Beef Trimmings for Shiga Toxin-Producing *Escherichia coli* (STEC) Organisms or Virulence Markers,'' FSIS has recommended that establishments define their lots so that if a positive result is found from one lot, the product in other lots is microbiologically independent and is not implicated.

In the guideline, FSIS goes on to explain that when FSIS requests that establishments recall product, FSIS looks at several factors to determine the scope of a recall, including the establishment's processing and sanitation procedures, and whether

there is any finished product reincorporated into fresh product (rework). In these guidelines, FSIS has recommended that establishments consider all these factors when defining a lot.

Comment: One industry organization commented that FSIS should take samples from product that is routinely manufactured and representative of the establishment's process. For instance, the commenter stated that if the grinder is making ground beef and routinely uses bench trim, then FSIS should sample and test ground product from bench trim.

Response: Consistent with the instructions in Directive 10,010.1, FSIS field personnel randomly select a day, shift, and time within the sampling timeframe to collect samples from all shifts the establishment operates. These procedures provide for random FSIS sampling of the product and ensure that FSIS samples and tests all types of product the establishment produces.

Compliance Guideline for STEC Sampled-and-Tested Claims for Boneless Beef Manufacturing Trimmings

Comment: Industry organizations asked whether all labels that will carry the sampled-and-tested claim need to be submitted separately to FSIS. Additionally, the organizations asked how long it takes to receive label approval with this sampled-and-tested claim.

Response: All labels bearing STEC sampled-and-tested claims need to be submitted to FSIS. The Office of Public Health Science and various staffs in the Office of Policy and Program Development will review these labels. Because reviews of these labels will involve Agency staffs besides the Labeling and Program Delivery Staff, the reviews will probably take longer than those for other types of labels bearing special claims. As FSIS explained in the May 7, 2012 **Federal Register**, as part of the label review process, FSIS will verify that the establishment submitted evidence that demonstrates that the establishment's HACCP measures related to the adulterant STEC organisms are effective in reducing the pathogen to non-detectable levels, and that the results of the establishment's sampling and testing demonstrate that those HACCP measures are effective (77 FR 26725). The Agency will try to ensure that the approval process is as timely as possible.

Comment: An industry organization suggested that FSIS develop labeling guidance based on the intended use of a product that contains beef manufacturing trimmings. The commenter stated that if the raw beef manufacturing trimmings have tested positive or presumptive-positive for *E. coli* O157:H7 and are diverted to be cooked, the beef manufacturing trimmings should be labeled ''for cooking only.''

Response: FSIS reviews labels bearing instructional statements such as ''for cooking only'' and verifies that establishments use such labels appropriately (i.e., for product going to another Federal establishment).

It is important to recognize that a ''for cooking only'' label is not sufficient to move adulterated product to another establishment for cooking or other full lethality treatment (e.g., high pressure processing or irradiation). Such product is adulterated and would need to move to other Federal establishments under company control.

Comment: A consumer group suggested that FSIS require, on a label bearing a sampled-and-tested claim, a statement that further clarifies that the claim does not mean that the labeled beef manufacturing trimmings are free of *E. coli* O157:H7.

Response: These sampled-and-tested claims on labels are not intended for use on product sold directly to consumers. FSIS would only approve labels with these claims if they include the relevant material facts; that is, a statement of limited use such as ''not for sale at retail.'' Industry is aware of the limitations of the labeling terms or statements used regarding STEC organisms, and thus further explanation is not necessary.

Comment: One industry organization commented that the labeling was not feasible or practical. This commenter stated that printing out a label with the full sampled-and-tested claim and placing production lot information on each label would be costly. The organization requested that FSIS consider alternatives. For example, the commenter stated that information contained on the label could be included in sales receipts or other records received from the supplier without label approval.

Response: These labeling claims are voluntary, not required. If an establishment finds the claims to be costly or impractical, they will not use them. As is explained above, sampled and tested claims need to be submitted to FSIS for review before use on labels. Therefore, an establishment could not print sampled or tested claims that FSIS had not reviewed and approved on sales receipts or other records.

Compliance Guideline for Establishment Sampling of Beef Trimmings for Shiga Toxin-Producing E. coli (STEC) or for Virulence; High-Event Periods (HEPs)

Comment: An industry association recommended that the Agency provide criteria for establishments that produce fewer than 50,000 pounds of beef manufacturing trimmings per day. One consumer group stated that, because FSIS based its HEP criteria on establishment data that already exists, FSIS should periodically review and revise its criteria, as appropriate, on the basis of industry data and performance. Another consumer asked whether the Agency would consider higher than 5 percent positive samples to be indicative of a problem in the establishment.

Response: The HEP guidance will be most useful to beef slaughter establishments that manufacture 50,000 pounds or more of beef manufacturing trimmings daily. Such establishments are likely to conduct sufficient verification testing on same source materials to be able to determine whether a HEP occurred. Through FSAs and outbreak investigations, FSIS has found that these establishments typically sample every combo bin or grouping of combo bins so that all product is subject to testing. Testing at this level is sufficient to determine whether a HEP occurred. Small volume establishments are unlikely to conduct sufficient verification testing to reliably detect the occurrence of a HEP. Through FSAs and outbreak investigations, FSIS has found that these establishments typically sample once per day or once per week. This testing frequency would most likely not detect a HEP. However, the document includes some general guidance concerning verification testing that small volume establishments will find useful and discusses, in general terms, ways for smaller volume establishments, including those that produce less than 50,000 pounds per day, to define HEPs.

When FSIS conducts traceback verification activities at establishments that do not have their own HEP criteria, FSIS will use the Agency HEP criteria in the guidance discussed above to determine whether establishments are taking appropriate actions to keep adulterated product out of commerce during a HEP. If establishments set their own appropriate HEP criteria, FSIS will also assess whether establishments are taking appropriate actions to keep adulterated product out of commerce during a HEP, based on the establishments' HEP criteria.

The Agency is concerned about beef manufacturing trimmings (including those that tested negative) and primal and subprimal products produced during the HEP when the percent positive is greater than 5 percent with a high degree of statistical confidence. If an establishment defines a HEP based on a percent positive over 5 percent, it will need to have strong support for its HEP. For example, if an establishment analyzes for more or broader indicators than those typically used to screen for *E. coli* O157:H7 and the six adulterant non-O157 STEC, the establishment may be able to support a HEP based on a higher percent positive. The establishment may be able to show that it is screening for additional non-O157 STEC. Therefore, the establishment may identify more HEPs in its production based on its testing than other establishments. If an establishment does not have strong support for a HEP over 5 percent, FSIS will not use the establishment's criteria in its assessment.

To develop recommendations for identifying HEPs, FSIS examined data collected in 2010 by FSIS inspection personnel from the top 33 slaughter establishments, based on production volume (heads slaughtered). Based on the results, FSIS selected a target of 5 percent. FSIS did not want to define HEP criteria that would be more rigorous than those of a large number of establishments and, therefore, did not select a lower target. Based on its analysis of outbreak-related recalls and the HEP criteria that establishments and FSIS used to identify the HEPs that led to these recalls, FSIS determined that the 5 percent target was sufficient to identify situations in which significant problems in slaughter dressing operations occurred that led to insanitary conditions. FSIS did not select a higher target (e.g., 10 percent) because, again based on the analysis of outbreak-related recalls, a higher target would not be sufficient to identify such situations.

FSIS intends to assess the effectiveness of its new traceback procedures and to assess establishment HEP criteria again in the future if necessary to ensure that the criteria remain effective in preventing illness and remain useful to establishments. For example, if new, more sensitive screening test methods or new real time confirmation test methods become available, and establishments begin using them, FSIS will assess establishment results and changes in establishment HEP criteria to determine whether to change the FSIS HEP criteria.

Comment: An industry organization asked whether the occurrence of a HEP would cause sampled-and-tested labels to be rescinded.

Response: FSIS may decide to rescind a label if it determines that the occurrence of the HEP rendered the label incorrect, and the product misbranded. FSIS would consider all circumstances before rescinding a label.

Executive Order 13175

The policy discussed in this notice does not have Tribal Implications that preempt Tribal Law.

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Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Federal_Register_Notices/index.asp.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/News_&_Events/Email_Subscription/.* Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, August 8, 2014.

Alfred V. Almanza,

Administrator.

[FR Doc. 2014–19141 Filed 8–12–14; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2009–0034]

Pre-Harvest Management To Reduce Shiga Toxin-Producing Escherichia coli Shedding in Cattle

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability and opportunity for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of its updated guidance document on pre-harvest management controls and intervention options for reducing Shiga toxin-producing *Escherichia coli* (STEC) shedding in cattle. In addition, this notice summarizes and responds to comments received on the guidance document and on the pre-harvest management issues that FSIS raised in a previous **Federal Register** notice and public meeting.

DATES: Written comments may be submitted until 30 days after issuance of this notice.

ADDRESSES: FSIS invites interested persons to submit comments on the guidance document for the pre-harvest management controls and intervention options for reducing STEC. Comments may be submitted by either of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.

Mail, including CD–ROMs, etc.: Send to Docket Room Manager, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163B, Washington, DC 20250–3700.

Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E. Street

SW., Room 8–163B, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2009–0034. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E. Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

A downloadable version of the revised guidance document is available to view and print at (add link to CG). No hard copies of the guidance document have been published.

FOR FURTHER INFORMATION CONTACT: Daniel L. Engeljohn, Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495, or by Fax: (202) 720–2025.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2010, FSIS announced the availability of a guidance document on pre-harvest management to reduce STEC shedding in cattle and requested comment on the guidance (75 FR 27288). The guidance provided beef slaughter establishments with an informational resource on pre-harvest management controls and interventions for reducing the shedding of STEC in feces during cattle production. The document provided an overview of the status of pre-harvest control and intervention strategies discussed in the scientific literature to reduce STEC shedding in cattle. The document covered the intervention strategies, state of findings, and links to additional scientific references for the strategies discussed.

The guidance explained that STEC shedding by cattle is a hazard that occurs at pre-harvest and in the holding pens at the establishment. STEC shedding may result in contamination of the hides and transfer of STEC to the carcass during carcass dressing. Establishments may address this hazard by incorporating into their HACCP plans or prerequisite programs purchase specifications, other programs, or agreements that require that their suppliers implement certain pre-harvest management controls.

As the guidance also explained, FSIS recommends pre-harvest interventions as the first control steps in an integrated beef products safety system. FSIS recommends that slaughter establishments receive their cattle from beef producers that implement one or more documented pre-harvest management practices to reduce STEC shedding.

In September 2011, FSIS declared six STEC strains—O26, O45, O103, O111, O121, and O145—in addition to O157:H7, as adulterants in beef (76 FR 58157). FSIS has updated the guidance document to address the additional adulterant STEC. In addition, in response to comments, FSIS removed statements from the document that may have recommended a particular pre-harvest intervention or practice over another.

On November 9, 2011, FSIS, the Animal and Plant Health Inspection Service (APHIS), and the Agricultural Research Service (ARS) hosted a public meeting seeking input on pre-harvest pathogen control strategies designed to reduce the likelihood that beef will be contaminated with pathogens of public health concern, such as Shiga toxin-producing *E. coli* and *Salmonella,* during the slaughter process. One of FSIS's goals for the public meeting was to obtain information that it could use to improve the pre-harvest guidance (76 FR 63901) that it had issued.

At the public meeting, presentations were made on ''The Control of Foodborne Pathogens in Cattle: Efficacy, Adoption, and Impact on Public Health'' and ''Public Health and Pre-Harvest Interventions—What is the potential.'' Additionally, round table discussions were held on ''What factors influence the shedding of *Salmonella* and *E. coli* O157:H7 and other STEC (e.g., age of cattle, stress conditions),'' ''What effective and practical mitigations are available to reduce the pathogen load in general, and *Salmonella* and STECs specifically, in cattle before slaughter,'' and ''How can producers, processors, and government work together to promote adoption of pre-harvest food safety mitigations.'' Individuals from all three Federal Agencies, industry, and industry associations were present. (See links to the meeting records later in this document.)

Meeting participants sought clarification of what super shedders are, and how they would be identified during production. They felt strongly that the United States should build upon successful mitigations used in foreign countries; allow the market to drive the value of any particular mitigation technology, including vaccines; and streamline the regulatory approval process. They recommended also that there be sustained discussions among Federal, industry, and academic partners to identify and put into practice pre-harvest mitigations for reducing foodborne hazards and beef.

FSIS has reviewed the comments from the public meeting, and based on its review, it has developed the updated guidance document whose availability FSIS is announcing. The updated document sets out innovative ways to control pathogens in beef at pre-harvest and pre-harvest pathogen control strategies for animals presented for slaughter.

Comments and Responses

FSIS received four comments in response to the May 2010 announcement of the availability of the guidance document. In adddition, the Agency received three comments in response to the October 2011 notice ''Pre-harvest Food Safety for Cattle Public Meeting'' (76 FR 63901), and five comments at the November 2011 public meeting. The comments were from consumer groups and industry trade associations. Following is a summary of the comments in response to the guidance and the public meeting and FSIS's responses.

General Comments

Comment: Industry trade associations expressed concern that the guidance document established requirements. One commenter was especially concerned that FSIS' inspection program personnel would use the guidance to take regulatory action.

Response: This guidance document, like all FSIS guidance documents, represents the Agency's current thinking on pre-harvest intervention strategies and does not establish requirements. There are no regulatory requirements for establishments embodied in the intervention and management practices outlined in this document. The Agency removed from the pre-harvest guidance document any statements that could indicate a preference for one pre-harvest intervention over another. An establishment is not required to use the interventions or management practices outlined in the guidance document and may take an alternative approach to reduce STEC shedding in cattle for slaughter.

Comment: Several comments stated that USDA should be more involved in pre-harvest food safety research. An advocacy group suggested that bacterial isolates collected from a statistically valid and nationally representative sample of cattle entering slaughter could provide information about the bacterial load on the animals. A University professor asked that the Agency

consider a research exemption to study STEC in industry environments to overcome the reluctance of packers to permit scientists to carry out studies in their facilities.

Response: FSIS recognizes the importance of determining the incoming bacterial load on cattle presented for slaughter, and of giving researchers access to the industry environment. However, FSIS does not advocate the introduction of pathogens into official establishments. Raw non-intact beef or intact beef intended to be used to produce raw non-intact beef is adulterated if contaminated with the STEC that FSIS has identified as adulterants. Therefore, establishments would have to take steps to effectively address any STEC detected during research that could contaminate raw non-intact product.

FSIS food safety research priorities include pre-harvest research initiatives, such as research on the effect of pre-harvest interventions on finished products; on the effectiveness of integration of one or more pre-harvest or post-harvest interventions as a control strategy; and identification or development of pre- and post-harvest interventions to reduce pathogen and chemical hazards in veal.

See FSIS Web site: *http://www.fsis.usda.gov/wps/portal/fsis/topics/science/food-safety-research-priorities.*

Vaccines, New Technologies, and Best Practices

Comment: Several commenters recognized that FSIS does not have authority to approve or regulate vaccines but encouraged the Agency to collaborate with APHIS' Center for Veterinary Biologics to provide a comprehensive view of the steps required for vaccine approval, one that covers foodborne illness pathogens as well as animal disease pathogens. Commenters underscored the need for industry to use new technologies and best practices, such as developed vaccines or the sanitary care of animals. An animal health care company noted that any of the interventions used on the farm would show increasing benefit the longer they are used on the live animal. A trade group representing meat packing and processing establishments recommended that the above-mentioned agencies collaborate with beef stakeholders through the *E. coli* Coalition and other industry efforts focused on beef safety.

Response: Hosting the public meeting is a clear example of successful collaboration among the three agencies. Additionally, the guidance document provides innovative ways to control pathogens in beef pre-harvest and when presented for slaughter. FSIS disagrees that any intervention used on the farm would show increasing benefit the longer it is used on the live animal. The effectiveness of select interventions may increase, e.g., husbandry practices, but not all the interventions described in the guidance document will provide an increasing benefit over time.

Additionally, FSIS's Office of Policy and Program Development provided updates to the National Advisory Committee on Meat and Poultry Inspection (NACMPI) on *Salmonella* and pre-harvest initiatives based on a NACMPI committee 2013 recommendation, which included that FSIS will continue to have discussions on pre-harvest issues among the federal government, industry, and academia and to re-issue the pre-harvest guidance document and respond to comments on the previous **Federal Register** Notice (78 FR 77643 and *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/past-meetings*).

Regarding working with external partners, FSIS is bringing together the groups that actually review the submissions that come to them on pre-harvest interventions along with ARS, which develops a lot of the research, to see whether FSIS and ARS could facilitate an expedited process. FSIS has met with the Food and Drug Administration on the pre-harvest intervention submissions that have been received by that agency and on the criteria that it uses to review them. Additionally, FSIS is in contact with APHIS regarding vaccines. Finally, FSIS is working with industry and academic partners to identify and incorporate pre-harvest mitigation strategies for reducing foodborne hazards in beef and poultry into guidance documents.

Antimicrobial Resistance

Comment: Two advocacy groups expressed concern about the use of antibiotics in cattle that may lead to antibiotic resistance and requested that FSIS take a more active role in promoting pre-harvest steps aimed at reducing the selection from and spread of antimicrobial resistance. One commenter suggested that current production practices, involving dependence on the non-therapeutic use of antibiotics and overcrowding in feedlots, create conditions that are ideal for the development and spread of antibiotic-resistant pathogens.

Response: FSIS recognizes the complexity of the antimicrobial resistance issue. Given this complexity, and the limits on FSIS's ability to address this issue, in the guidance document, FSIS discusses studies that focus on the effects of various strategies to reduce STEC shedding in cattle. These strategies include the use of medications, such as antibiotics, as well as non-medicinal approaches. The guidance document discusses the use of antibiotics, such as ionophores, neomycin sulfate, tetracycline, and oxytetracycline, in cattle and their effect on STEC shedding.

FSIS participates in the National Resistance Monitoring System (NARMS) sampling program, which is a surveillance sampling program that provides FSIS, FDA, and other interested agencies with data on the presence of selected enteric microorganisms in food animal species. The sampling for antibiotic residues is conducted as part of NARMS.

Comment: A consumer advocacy group stated that, while the pre-harvest meeting discussions focused mainly on the control of *E. coli,* FSIS should recognize that there are significant pre-harvest issues related to the control of *Salmonella.* The commenter noted that it has petitioned FSIS to declare four strains of *Salmonella* to be adulterants when antibiotic resistant and when found in FSIS-regulated products, considering it to be within FSIS' authority to declare these antimicrobial resistant strains to be adulterants.

Response: FSIS is reviewing the group's petition and expects to respond to the petition in the coming months and will post the response on the FSIS Web site.

More broadly, FSIS's focus for the guidance document is to provide beef slaughter establishments with an informational resource on pre-harvest management controls and interventions for reducing STEC shedding in beef cattle production. In regards to *Salmonella,* FSIS announced an action plan posted at: *http://www.fsis.usda.gov/wps/wcm/connect/aae911af-f918-4fe1-bc42-7b957b2e942a/SAP-120413.pdf?MOD=AJPERES.*

Pre-harvest contamination can affect the level of *Salmonella* on FSIS-regulated products. Synthesizing information on pre-harvest interventions from previous and on-going FSIS activities, and other information available from industry, could help decrease the prevalence or levels of *Salmonella* on FSIS-regulated products. As stated in the action plan, FSIS will continue to work with industry members to identify best practices for pre-harvest. FSIS will also organize and host a meeting to focus on pre-harvest issues for poultry. FSIS will then use the information gathered at

that meeting to inform future policies and best-practice guidelines.

Communication With Stakeholders

Comment: An animal health care company encouraged the public meeting organizers to follow-up with participants by communicating potential results or implications of the meeting.

Response: The Agency agrees that stakeholders should be kept informed. The transcript of the meeting is available on the Agency's Web site at *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/past-meetings/past-meetings-2011.* Notes from the round table discussions held at the meeting are available at *http://www.fsis.usda.gov/wps/wcm/connect/2091b3b8-2d81-4531-81b7-f05369a9a16f/Pre-Harvest_FS_Notes.pdf?MOD=AJPERES.* An outgrowth of the meeting is the Agency's updated guidance document. FSIS fully considered the comments made during and in response to the meeting in updating the guidance.

Comment: Three commenters stated that the May 2010 guidance document lacked scientific rigor, was inconsistent in the recommendations, and generally included practices that did not work. For example, a trade association disagreed that antibiotics would be effective in preventing shedding of *E. coli* O157:H7 in cattle. One commenter felt there would be confusion in the use of both scientific and trade names for antibiotics.

Response: It is important that establishments, particularly small and very small establishments, have access to a full range of scientific and technical information to assist them in establishing safe and effective HACCP systems, including information on pre-harvest management strategies that an establishment may choose to incorporate to reduce the incoming bacterial load into their process. For example, the guidance draws on a number of studies on feed types, feed additives, fasting, and their effects on *E. coli* O157:H7 shedding, with some studies showing a decrease in *E. coli* O157:H7 shedding, while others showed an increase or no difference in *E. coli* O157:H7 shedding. In some studies, ractopamine was shown to decrease *E. coli* O157:H7 shedding, while in other studies it was shown to increase *E. coli* O157:H7 shedding. The Agency's intent in re-issuing the guidance document is to provide industry with a review of the literature on, and the current status of, pre-harvest interventions, management practices, and ongoing research. FSIS has removed statements from the document that may have recommended any particular pre-harvest intervention or practice over another one.

As stated above, there is no regulatory requirement for establishments to use the interventions or management practices outlined in the guidance document.

FSIS regards the use of both scientific and trade names for antibiotics as justified because the use of both is common in the scientific literature on pre-harvest interventions and management practices.

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/federal-register.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/subscribe.*

Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail

U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax

(202) 690–7442.

Email

program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: August 8, 2014.

Alfred V. Almanza,

Administrator.

[FR Doc. 2014–19172 Filed 8–12–14; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funds Availability (NOFA) Inviting Applications for the Rural Community Development Initiative (RCDI) for Fiscal Year 2014

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the availability of $5,967,000 in Fiscal Year (FY) 2014 funding for competitive grant funds for the Rural Community Development Initiative (RCDI) program through the Rural Housing Service (RHS), an agency within the USDA Rural Development mission area herein referred to as the Agency. Applicants must provide matching funds in an amount at least equal to the Federal grant. These grants will be made to qualified intermediary organizations that will provide financial and technical assistance to recipients to develop their capacity and ability to undertake projects related to housing, community facilities, or community and economic development that will support the community.

This Notice lists the information needed to submit an application for these funds.

DATES: The deadline for receipt of an application is 4 p.m. local time, November 12, 2014. The application

date and time are firm. The Agency will not consider any application received after the deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

ADDRESSES: Entities wishing to apply for assistance may download the application documents and requirements delineated in this Notice from the RCDI Web site: *http://www.rurdev.usda.gov/HAD-RCDI_Grants.html.*

Application information for electronic submissions may be found at *http://www.grants.gov.*

Applicants may also request paper application packages from the Rural Development office in their state. A list of Rural Development State offices can be found via *http://www.rurdev.usda.gov/SupportDocuments/RCDI_State_Contacts.pdf.*

FOR FURTHER INFORMATION CONTACT: The Rural Development office for the state the applicant is located. A list of Rural Development State Office contacts can be found via *http://www.rurdev.usda.gov/SupportDocuments/RCDI_State_Contacts.pdf.*

Paperwork Reduction Act

The paperwork burden has been cleared by the Office of Management and Budget (OMB) under OMB Control Number 0575–0180.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Housing Service.

Funding Opportunity Title: Rural Community Development Initiative.

Announcement Type: Initial Announcement.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.446.

Dates: The deadline for receipt of an application is 4 p.m. local time, November 12, 2014. The application date and time are firm. The Agency will not consider any application received after the deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

Part I—Funding Opportunity Description

Congress, in the Consolidated Appropriations Act, 2014 (Pub. L. 113–76) authorized the RCDI to develop the capacity and ability of qualified private, nonprofit community-based housing and community development organizations, low-income rural communities, and federally recognized Native American Tribes to undertake projects related to housing, community facilities, or community and economic development in rural areas.

Part II—Award Information

Congress appropriated $5,967,000 in FY 2014 for the RCDI program. Qualified private, nonprofit and public (including tribal) intermediary organizations proposing to carry out financial and technical assistance programs will be eligible to receive the funding. The intermediary will be required to provide matching funds in an amount at least equal to the RCDI grant.

The respective minimum and maximum grant amount per intermediary is $50,000 and $250,000.

The intermediary must provide a program of financial and technical assistance to a private, nonprofit community-based housing and development organization, a low-income rural community or a federally recognized tribe.

Part III—Eligibility Information

A. Eligible Applicants

1. Qualified private, nonprofit, (including faith-based and community organizations and philanthropic foundations), in accordance with 7 CFR part 16, and public (including tribal) intermediary organizations. Definitions that describe eligible organizations and other key terms are listed below.

2. RCDI grantees that have an outstanding grant over 3 years old, as of the application due date in this Notice, will not be eligible to apply for this round of funding. Grant and matching funds must be utilized in a timely manner to ensure that the goals and objectives of the program are met.

B. Program Definitions

Agency—The Rural Housing Service (RHS) or its successor.

Beneficiary—Entities or individuals that receive benefits from assistance provided by the recipient.

Capacity—The ability of a recipient to implement housing, community facilities, or community and economic development projects.

Conflict of interest—A situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Regarding use of both grant and matching funds, Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a financial or other interest in the outcome of the project; or that restrict open and free competition for unrestrained trade. Specifically, project funds may not be used for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest, including, but not limited to, owner(s) and their immediate family members. An example of conflict of interest occurs when the grantee's employees, board of directors, or the immediate family of either, have the appearance of a professional or personal financial interest in the recipients receiving the benefits or services of the grant.

Federally recognized tribes—Tribal entities recognized and eligible for funding and services from the Bureau of Indian Affairs, based on the current notice in the **Federal Register** published by the Bureau of Indian Affairs. Tribally Designated Housing Entities are eligible RCDI recipients.

Financial assistance—Funds, not to exceed $10,000 per award, used by the intermediary to purchase supplies and equipment to build the recipient's capacity.

Funds—The RCDI grant and matching money.

Intermediary—A qualified private, nonprofit (including faith-based and community organizations and philanthropic organizations), or public (including tribal) organization that provides financial and technical assistance to multiple recipients.

Low-income rural community—An authority, district, economic development authority, regional council, or unit of government representing an incorporated city, town, village, county, township, parish, or borough whose income is at or below 80 percent of either the state or national Median Household Income as measured by the 2010 Census.

Matching funds—Cash or confirmed funding commitments. Matching funds must be at least equal to the grant amount and committed for a period of not less than the grant performance period.

Recipient—The entity that receives the financial and technical assistance from the Intermediary. The recipient

must be a nonprofit community-based housing and development organization, a low-income rural community or a federally recognized Tribe.

Regional Collaboration—Multi-jurisdictional areas typically within a State, territory, or federally-designated Tribal land but which can cross State, territory, or Tribal boundaries. The Regional Collaboration approach is intended to combine the resources of the Agency with those of State and local governments, educational institutions, and the private and nonprofit sectors to implement regional economic and community development strategies.

Rural and rural area—Any area other than (i) a city or town that has a population of greater than 50,000 inhabitants; and (ii) the urbanized area contiguous and adjacent to such city or town.

Technical assistance—Skilled help in improving the recipient's abilities in the areas of housing, community facilities, or community and economic development.

C. Cost Sharing or Matching

Matching funds are cash or confirmed funding commitments and must be at least equal to the grant amount and committed for a period of not less than the grant performance period. These funds can only be used for eligible RCDI activities. Matching funds must be used to support the overall purpose of the RCDI program.

In-kind contributions such as salaries, donated time and effort, real and nonexpendable personal property and goods and services cannot be used as matching funds.

Grant funds and matching funds must be used in equal proportions. This does not mean funds have to be used equally by line item.

The request for advance or reimbursement and supporting documentation must show that RCDI fund usage does not exceed the cumulative amount of matching funds used.

Grant funds will be disbursed pursuant to relevant provisions of 7 CFR parts 3015, 3016, and 3019, as applicable. Verification of matching funds must be submitted with the application.

The intermediary is responsible for demonstrating that matching funds are available, and committed for a period of not less than the grant performance period to the RCDI proposal. Matching funds may be provided by the intermediary or a third party. Other Federal funds may be used as matching funds if authorized by statute and the purpose of the funds is an eligible RCDI purpose.

RCDI funds will be disbursed on an advance or reimbursement basis. Matching funds cannot be expended prior to execution of the RCDI Grant Agreement.

No reimbursement will be made for any funds expended prior to execution of the RCDI Grant Agreement unless the intermediary is a non-profit or educational entity and has requested and received written Agency approval of the costs prior to the actual expenditure.

This exception is applicable for up to 90 days prior to grant closing and only applies to grantees that have received written approval but have not executed the RCDI Grant Agreement.

The Agency cannot retroactively approve reimbursement for expenditures prior to execution of the RCDI Grant Agreement.

D. Other Program Requirements

1. The recipient and beneficiary, but not the intermediary, must be located in an eligible rural area. The physical location of the recipient's office that will be receiving the financial and technical assistance must be in an eligible rural area. If the recipient is a low-income community, the median household income of the area where the office is located must be at or below 80 percent of the State or national median household income, whichever is higher. The applicable Rural Development State Office can assist in determining the eligibility of an area.

A listing of Rural Development State Office contacts can be found via *http://www.rurdev.usda.gov/SupportDocuments/RCDI_State_Contacts.pdf.* A map showing eligible rural areas can be found at the following link: *http://eligibility.test.sc.egov.usda.gov/eligibility/welcomeAction.do?pageAction=RBSmenu&NavKey=property@13.*

2. The recipient must be a nonprofit, which may include a faith-based organization, philanthropic foundation, community-based housing and development organization, low-income rural community, or federally recognized tribe based on the RCDI definitions of these groups.

3. Documentation must be submitted to verify recipient eligibility. Acceptable documentation varies depending on the type of recipient. Private nonprofit, faith or community-based organizations must provide a certificate of incorporation and good standing from the Secretary of the State of incorporation, or other similar and valid documentation of nonprofit status. For low-income rural community recipients, the Agency requires evidence that the entity is a public body and census data verifying that the median household income of the community where the office receiving the financial and technical assistance is located is at, or below, 80 percent of the State or national median household income, whichever is higher.

For federally recognized tribes, the Agency needs the page listing their name from the current **Federal Register** list of tribal entities recognized and eligible for funding services (see the definition of federally recognized tribes in this Notice for details on this list).

4. Individuals cannot be recipients.

5. The intermediary must provide matching funds at least equal to the amount of the grant. Verification of matching funds must be submitted with the application. Matching funds must be committed for a period equal to the grant performance period.

6. The intermediary must provide a program of financial and technical assistance to the recipient.

7. The intermediary organization must have been legally organized for a minimum of 3 years and have at least 3 years prior experience working with private nonprofit community-based housing and development organizations, low-income rural communities, or tribal organizations in the areas of housing, community facilities, or community and economic development.

8. Proposals must be structured to utilize the grant funds within 3 years from the date of the award.

9. Each applicant, whether singularly or jointly, may only submit one application for RCDI funds under this Notice. This restriction does not preclude the applicant from providing matching funds for other applications.

10. Recipients can benefit from more than one RCDI application; however, after grant selections are made, the recipient can only benefit from multiple RCDI grants if the type of financial and technical assistance the recipient will receive is not duplicative. The services described in multiple RCDI grant applications must have separate and identifiable accounts for compliance purposes.

11. The intermediary and the recipient cannot be the same entity. The recipient can be a related entity to the intermediary, if it meets the definition of a recipient, provided the relationship does not create a conflict of interest that cannot be resolved to Rural Development's satisfaction.

12. A nonprofit recipient must provide evidence that it is a valid nonprofit when the intermediary applies for the RCDI grant.

Organizations with pending requests for nonprofit designations are not eligible.

13. If the recipient is a low-income rural community, identify the unit of government to which the financial and technical assistance will be provided, e.g., town council or village board. The financial and technical assistance must be provided to the organized unit of government representing that community, not the community at large.

14. If a grantee has an outstanding RCDI grant over 3 years old, as of the application due date in this Notice, it is not eligible to apply for this round of funding.

15. The indirect cost category in the project budget should be used only when a grant applicant has a federally negotiated indirect cost rate. A copy of the current rate agreement must be provided with the application.

16. Grant applicants must obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and register in the System for Award Management (SAM) prior to submitting a pre-application pursuant to 2 CFR 25.200(b). In addition, an entity applicant must maintain registration in SAM at all times during which it has an active Federal award or an application or plan under construction by the Agency. Similarly, all recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation in accordance to 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b).

E. Eligible Fund Uses

Fund uses must be consistent with the RCDI purpose. A nonexclusive list of eligible grant uses includes the following:

1. Provide technical assistance to develop recipients' capacity and ability to undertake projects related to housing, community facilities, or community and economic development, e.g., the intermediary hires a staff person to provide technical assistance to the recipient or the recipient hires a staff person, under the supervision of the intermediary, to carry out the technical assistance provided by the intermediary.

2. Develop the capacity of recipients to conduct community development programs, e.g., homeownership education or training for business entrepreneurs.

3. Develop the capacity of recipients to conduct development initiatives, e.g., programs that support micro-enterprise and sustainable development.

4. Develop the capacity of recipients to increase their leveraging ability and access to alternative funding sources by providing training and staffing.

5. Develop the capacity of recipients to provide the technical assistance component for essential community facilities projects.

6. Assist recipients in completing pre-development requirements for housing, community facilities, or community and economic development projects by providing resources for professional services, e.g., architectural, engineering, or legal.

7. Improve recipient's organizational capacity by providing training and resource material on developing strategic plans, board operations, management, financial systems, and information technology.

8. Purchase of computers, software, and printers, limited to $10,000 per award, at the recipient level when directly related to the technical assistance program being undertaken by the intermediary.

9. Provide funds to recipients for training-related travel costs and training expenses related to RCDI.

F. Ineligible Fund Uses

The following is a list of ineligible grant uses:

1. Pass-through grants, capacity grants, and any funds provided to the recipient in a lump sum that are not reimbursements.

2. Funding a revolving loan fund (RLF).

3. Construction (in any form).

4. Salaries for positions involved in construction, renovations, rehabilitation, and any oversight of these types of activities.

5. Intermediary preparation of strategic plans for recipients.

6. Funding prostitution, gambling, or any illegal activities.

7. Grants to individuals.

8. Funding a grant where there may be a conflict of interest, or an appearance of a conflict of interest, involving any action by the Agency.

9. Paying obligations incurred before the beginning date without prior Agency approval or after the ending date of the grant agreement.

10. Purchasing real estate.

11. Improvement or renovation of the grantee's, or recipient's office space or for the repair or maintenance of privately owned vehicles.

12. Any purpose prohibited in 7 CFR parts 3015, 3016, or 3019, as applicable.

13. Using funds for recipient's general operating costs.

14. Using grant or matching funds for Individual Development Accounts.

15. Purchasing vehicles.

G. Program Examples and Restrictions

The purpose of this initiative is to develop or increase the recipient's capacity through a program of financial and technical assistance to perform in the areas of housing, community facilities, or community and economic development. Strengthening the recipient's capacity in these areas will benefit the communities they serve. The RCDI structure requires the intermediary (grantee) to provide a program of financial and technical assistance to recipients.

The recipients will, in turn, provide programs to their communities (beneficiaries). The following are examples of eligible and ineligible purposes under the RCDI program. (These examples are illustrative and are not meant to limit the activities proposed in the application. Activities that meet the objectives of the RCDI program and meet the criteria outlined in this Notice will be considered eligible.)

1. The intermediary must work directly with the recipient, not the ultimate beneficiaries. As an example:

The intermediary provides training to the recipient on how to conduct homeownership education classes. The recipient then provides ongoing homeownership education to the residents of the community—the ultimate beneficiaries. This ''train the trainer'' concept fully meets the intent of this initiative. The intermediary is providing technical assistance that will build the recipient's capacity by enabling them to conduct homeownership education classes for the public.

This is an eligible purpose. However, if the intermediary directly provided homeownership education classes to individuals in the recipient's service area, this would not be an eligible purpose because the recipient would be bypassed.

2. If the intermediary is working with a low-income community as the recipient, the intermediary must provide the technical assistance to the entity that represents the low-income community and is identified in the application. Examples of entities representing a low-income community are a village board or a town council.

If the intermediary provides technical assistance to the Board of the low-income community on how to establish a cooperative, this would be an eligible purpose. However, if the intermediary works directly with individuals from

the community to establish the cooperative, this is not an eligible purpose.

The recipient's capacity is built by learning skills that will enable them to support sustainable economic development in their communities on an ongoing basis.

3. The intermediary may provide technical assistance to the recipient on how to create and operate a revolving loan fund. The intermediary may not monitor or operate the revolving loan fund. RCDI funds, including matching funds, cannot be used to fund revolving loan funds.

4. The intermediary may work with recipients in building their capacity to provide planning and leadership development training. The recipients of this training would be expected to assume leadership roles in the development and execution of regional strategic plans. The intermediary would work with multiple recipients in helping communities recognize their connections to the greater regional and national economies.

5. The intermediary could provide training and technical assistance to the recipients on developing emergency shelter and feeding, short-term housing, search and rescue, and environmental accident, prevention, and cleanup program plans. For longer term disaster and economic crisis responses, the intermediary could work with the recipients to develop job placement and training programs, and develop coordinated transit systems for displaced workers.

Part IV—Application and Submission Information

A. Address To Request Application Package

Entities wishing to apply for assistance may download the application documents and requirements delineated in this Notice from the RCDI Web site: *http://www.rurdev.usda.gov/HAD-RCDI_Grants.html*.

Application information for electronic submissions may be found at *http://www.grants.gov*.

Applicants may also request paper application packages from the Rural Development office in their state. A list of Rural Development State office contacts can be found via *http://www.rurdev.usda.gov/SupportDocuments/RCDI_State_Contacts.pdf*.

B. Content and Form of Application Submission

If the applicant is ineligible or the application is incomplete, the Agency will inform the applicant in writing of the decision, reasons therefore, and its appeal rights and no further evaluation of the application will occur.

A complete application for RCDI funds must include the following:

1. A summary page, double-spaced between items, listing the following: (This information should not be presented in narrative form.)

a. Applicant's name,

b. Applicant's address,

c. Applicant's telephone number,

d. Name of applicant's contact person and telephone number,

e. Applicant's fax number,

f. County where applicant is located,

g. Congressional district number where applicant is located,

h. Amount of grant request, and

i. Number of recipients.

2. A detailed Table of Contents containing page numbers for each component of the application.

3. A project overview, no longer than five pages, including the following items, which will also be addressed separately and in detail under ''Building Capacity'' of the ''Evaluation Criteria.''

a. The type of technical assistance to be provided to the recipients and how it will be implemented.

b. How the capacity and ability of the recipients will be improved.

c. The overall goals to be accomplished.

d. The benchmarks to be used to measure the success of the program. Benchmarks should be specific and quantifiable.

4. Organizational documents, such as a certificate of incorporation and a current good standing certification from the Secretary of State where the applicant is incorporated and other similar and valid documentation of non-profit status, from the intermediary that confirms it has been legally organized for a minimum of 3 years as the applicant entity.

5. Verification of source and amount of matching funds, e.g., a copy of a bank statement if matching funds are in cash or a copy of the confirmed funding commitment from the funding source.

The verification must show that matching funds are available for the duration of the grant performance period. The verification of matching funds must be submitted with the application or the application will be considered incomplete.

The applicant will be contacted by the Agency prior to grant award to verify that the matching funds provided with the application continue to be available. The applicant will have 15 days from the date contacted to submit verification that matching funds continue to be available.

If the applicant is unable to provide the verification within that timeframe, the application will be considered ineligible. The applicant must maintain bank statements on file or other documentation for a period of at least 3 years after grant closing except that the records shall be retained beyond the 3-year period if audit findings have not been resolved.

6. The following information for each recipient:

a. Recipient's entity name,

b. Complete address (mailing and physical location, if different),

c. County where located,

d. Number of Congressional district where recipient is located,

e. Contact person's name and telephone number, and

f. Form RD 400–4, ''Assurance Agreement.'' If the Form RD 400–4 is not submitted for a recipient, the recipient will be considered ineligible. No information pertaining to that recipient will be included in the income or population scoring criteria and the requested funding may be adjusted due to the deletion of the recipient.

7. Submit evidence that each recipient entity is eligible:

a. Nonprofits—provide a current valid letter confirming non-profit status from the Secretary of the State of incorporation or the IRS, a current good standing certification from the Secretary of the State of incorporation, or other valid documentation of nonprofit status of each recipient.

b. Low-income rural community—provide evidence the entity is a public body, and a copy of the 2010 census data to verify the population, and evidence that the median household income is at, or below, 80 percent of either the State or national median household income. We will only accept data and printouts from *http://www.census.gov*.

c. Federally recognized tribes—provide the page listing their name from the **Federal Register** list of tribal entities published by the Bureau of Indian Affairs on May 6, 2013 (78 FR 26384) or from the 2014 list which can be found at *http://www.bia.gov/cs/groups/public/documents/text/idc006989*.

8. Each of the ''Evaluation Criteria'' must be addressed specifically and individually by category. Present these criteria in narrative form. Documentation must be limited to three pages per criterion. The ''Population'' and ''Income'' criteria for recipient locations can be provided in the form of a list; however, the source of the data must be included on the page(s).

9. A timeline identifying specific activities and proposed dates for completion.

10. A detailed project budget that includes the RCDI grant amount and matching funds. This should be a line-item budget, by category. Categories such as salaries, administrative, other, and indirect costs that pertain to the proposed project must be clearly defined. Supporting documentation listing the components of these categories must be included. The budget should be dated: Year 1, year 2, year 3, as applicable.

11. Form SF–424, ''Application for Federal Assistance.'' (Do not complete Form SF–424A, ''Budget Information.'' A separate line-item budget should be presented as described in No. 13 of this section.)

12. Form SF–424B, ''Assurances—Non-Construction Programs.''

13. Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''

14. Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions.''

15. Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements.''

16. Certification of Non-Lobbying Activities.

17. Standard Form LLL, ''Disclosure of Lobbying Activities,'' if applicable.

18. Form RD 400–4, ''Assurance Agreement,'' for the applicant.

19. Identify and report any association or relationship with Rural Development employees. (A statement acknowledging whether or not a relationship exists is required).

20. For grants, the applicant's Dun and Bradstreet Data Universal Numbering Systems (DUNS) number and registration in the System for Award Management (SAM) in accordance with 2 CFR part 25. As required by the Office of Management and Budget (OMB), all grant applications must provide a DUNS number when applying for Federal grants, on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free number at 1–866–705–5711 or via Internet at *http://www.dnb.com/us/*. Additional information concerning this requirement can be obtained on the Grants.gov Web site at *http://www.grants.gov*. Similarly, applicants may register for SAM at *https://www.sam.gov* or by calling 1–866–606–8220.

The DUNS number should be identified in the ''Organizational DUNS'' field on Standard Form (SF) 424, ''Application for Federal Assistance.'' Since there are no specific fields for a Commercial and Government Entity (CAGE) code and expiration date, they may be identified anywhere on the Form SF 424. If the applicant does not provide the CAGE code and expiration date and the DUNS number in the application, it will not be considered for funding. The required forms and certifications can be downloaded from the RCDI Web site at: *http://www.rurdev.usda.gov/HAD-RCDI_Grants.html*.

C. Other Submission Information

Survey on Ensuring Equal Opportunity for Applicants, OMB No. 1894–0010 (applies only to nonprofit applicants only—submission is optional).

The original application package must be submitted to the Rural Development State Office where the applicant's headquarters is located. A listing of Rural Development State Offices can be found via *http://www.rurdev.usda.gov/SupportDocuments/RCDI_State_Contacts.pdf*. Applications will not be accepted via FAX or electronic mail.

Applicants may file an electronic application at *http://www.grants.gov*. Grants.gov contains full instructions on all required passwords, credentialing, and software. Follow the instructions at Grants.gov for registering and submitting an electronic application. If a system problem or technical difficulty occurs with an electronic application, please use the customer support resources available at the Grants.gov Web site.

Technical difficulties submitting an application through Grants.gov will not be a reason to extend the application deadline. If an application is unable to be submitted through Grants.gov, a paper application must be received in the appropriate Rural Development State Office by the deadline noted previously.

First time Grants.gov users should carefully read and follow the registration steps listed on the Web site. These steps need to be initiated early in the application process to avoid delays in submitting your application online.

In order to register with System for Award Management (SAM), your organization will need a DUNS number. Be sure to complete the Marketing Partner ID (MPID) and Electronic Business Primary Point of Contact fields during the SAM registration process.

These are mandatory fields that are required when submitting grant applications through Grants.gov. Additional application instructions for submitting an electronic application can be found by selecting this funding opportunity on Grants.gov.

D. Funding Restrictions

Meeting expenses. In accordance with 31 U.S.C. 1345, ''Expenses of Meetings,'' appropriations may not be used for travel, transportation, and subsistence expenses for a meeting. RCDI grant funds cannot be used for these meeting-related expenses. Matching funds may, however, be used to pay for these expenses.

RCDI funds may be used to pay for a speaker as part of a program, equipment to facilitate the program, and the actual room that will house the meeting.

RCDI funds cannot be used for meetings; they can, however, be used for travel, transportation, or subsistence expenses for program-related training and technical assistance purposes. Any training not delineated in the application must be approved by the Agency to verify compliance with 31 U.S.C. 1345. Travel and per diem expenses (including meals and incidental expenses) will be similar to those paid to Agency employees.

Rates are based upon location. Rate information can be obtained from the applicable Rural Development State Office. When lodging is not available at the government rate, grantees and recipients may exceed the Government rate for lodging by a maximum of 20 percent.

Grantees and recipients will be restricted to traveling coach class on common carrier airlines. Mileage and gas reimbursement will be the same rate used by Agency employees. This rate may be obtained from the applicable Rural Development State Office.

Part V—Application Review Information

A. Evaluation Criteria

Applications will be evaluated using the following criteria and weights:

1. Building Capacity—Maximum 60 Points

The applicant must demonstrate how they will improve the recipients' capacity, through a program of financial and technical assistance, as it relates to the RCDI purposes.

Capacity-building financial and technical assistance should provide new functions to the recipients or expand existing functions that will enable the recipients to undertake projects in the areas of housing, community facilities, or community and economic

development that will benefit the community. Capacity-building financial and technical assistance may include, but is not limited to: training to conduct community development programs, e.g., homeownership education, or the establishment of minority business entrepreneurs, cooperatives, or micro-enterprises; organizational development, e.g., assistance to develop or improve board operations, management, and financial systems; instruction on how to develop and implement a strategic plan; instruction on how to access alternative funding sources to increase leveraging opportunities; staffing, e.g., hiring a person at intermediary or recipient level to provide technical assistance to recipients.

The program of financial and technical assistance provided, its delivery, and the measurability of the program's effectiveness will determine the merit of the application.

All applications will be competitively ranked with the applications providing the most improvement in capacity development and measurable activities being ranked the highest.

a. The narrative response must:

i. Describe the nature of financial and technical assistance to be provided to the recipients and the activities that will be conducted to deliver the technical assistance;

ii. Explain how financial and technical assistance will develop or increase the recipient's capacity. Indicate whether a new function is being developed or if existing functions are being expanded or performed more effectively;

iii. Identify which RCDI purpose areas will be addressed with this assistance: Housing, community facilities, or community and economic development; and

iv. Describe how the results of the technical assistance will be measured. What benchmarks will be used to measure effectiveness? Benchmarks should be specific and quantifiable.

b. The maximum 60 points for this criterion will be broken down as follows:

i. Type of financial and technical assistance and implementation activities. 35 points.

ii. An explanation of how financial and technical assistance will develop capacity. 10 points.

iii. Identification of the RCDI purpose. 5 points.

iv. Measurement of outcomes. 10 points.

2. Expertise—Maximum 30 Points

The applicant must demonstrate that it has conducted programs of financial and technical assistance and achieved measurable results in the areas of housing, community facilities, or community and economic development in rural areas.

Provide the name, contact information, and the type and amount of the financial and technical assistance the applicant organization has provided to the following for the last 3 years:

a. Nonprofit organizations in rural areas.

b. Low-income communities in rural areas (also include the type of entity, e.g., city government, town council, or village board).

c. Federally recognized tribes or any other culturally diverse organizations.

3. Population—Maximum 30 Points

Population is based on the average population from the 2010 census data for the communities in which the recipients are located. The physical address, not mailing address, for each recipient must be used for this criterion. Community is defined for scoring purposes as a city, town, village, county, parish, borough, or census-designated place where the recipient's office is physically located.

The applicant must submit the census data from the following Web site in the form of a printout of the applicable ''Fact Sheet'' to verify the population figures used for each recipient. The data can be accessed on the Internet at *http://www.census.gov;* click on ''American FactFinder,'' fill in field and click ''Go''; the name and population data for each recipient location must be listed in this section.

The average population of the recipient locations will be used and will be scored as follows:

Population	Scoring (points)
5,000 or less	30
5,001 to 10,000	20
10,001 to 20,000	10
20,001 to 50,000	5

4. Income—Maximum 30 Points

The average of the median household income for the communities where the recipients are physically located will determine the points awarded. The physical address, not mailing address, for each recipient must be used for this criterion. Applicants may compare the average recipient median household income to the State median household income or the national median household income, whichever yields the most points. The national median household income to be used is $51,914.

The applicant must submit the income data in the form of a printout of the applicable information from the following Web site to verify the income for each recipient.

The data being used is from the 2010 census. The data can be accessed on the Internet at *http://www.census.gov;* click on ''American FactFinder,'' fill in field and click ''Go''; the name and income data for each recipient location must be listed in this section. Points will be awarded as follows:

Average recipient median income	Scoring (points)
Less than 60 percent of state or national median household income	30
From 60 to 70 percent of state or national median household income	20
Greater than 70 to 80 percent of state or national median household income	10
In excess of 80 percent of state or national median household income	0

5. Soundness of Approach—Maximum 50 Points

The applicant can receive up to 50 points for soundness of approach. The overall proposal will be considered under this criterion. Applicants must list the page numbers in the application that address these factors.

The maximum 50 points for this criterion will be broken down as follows:

a. The ability to provide the proposed financial and technical assistance based on prior accomplishments has been demonstrated. 10 Points.

b. The proposed financial and technical assistance program is clearly stated and the applicant has defined how this proposal will be implemented. The plan for implementation is viable. 10 Points.

c. Cost effectiveness will be evaluated based on the budget in the application. The proposed grant amount and matching funds should be utilized to maximize capacity building at the recipient level. 15 points.

d. The proposal fits the objectives for which applications were invited. 15 points.

6. Technical assistance for the development of Renewable Energy Systems and Energy Efficiency Improvements—Maximum 20 Points

The applicant must demonstrate how they will improve the recipients' capacity to carry out activities related to

the development of renewable energy systems and energy efficiency improvements for housing, community facilities, or community and economic development.

7. Regional Collaboration Applications—Maximum 20 Points

The Agency encourages applications that promote substantive economic growth, including job creation, as well as specifically addressing the circumstances of those sectors within the region that have fewer prospects and the greatest need for improved economic opportunity.

A Regional Collaboration project should implement goals, objectives or actions identified in a Regional Strategic Plan which addresses priorities specified at a regional scale. Applications should demonstrate:

a. Clear leadership at the Intermediary level in organizing and coordinating a regional initiative;

b. Evidence that the Recipient's region has a common economic basis that supports the likelihood of success in implementing its strategy; and

c. Evidence that technical assistance will be provided that will increase the Recipient's capacity to assess their circumstance, determine a long term sustainable vision for the region, and implement a comprehensive strategic plan, including identifying performance measures and establishing a system to collect the data to allow assessment of those performance measures.

8. Local Investment Points—Maximum 20 Points

Intermediaries must be physically located in an eligible rural community and must include evidence of investment in the community. The intent is to ensure that RCDI funds are expended in the rural community.

9. Investing in Manufacturing Communities—Maximum 25 Points

Grant applicants demonstrating a technical assistance plan to help boost investing in manufacturing communities will be awarded a maximum of 25 additional points.

The applicant must demonstrate how their efforts will attract manufacturers and their supply chain of local innovators, producers, and distributors to create new jobs and strengthen the local economy. Applicant must demonstrate how it will support the redevelopment of manufacturing communities that have had major plant closings, in partnership with local leaders, workers and businesses. The maximum 25 points for this criterion will be awarded as follows:

a. Demonstrates how this project will attract manufacturing to the region. (10 points)

b. The ability to provide technical assistance to develop and implement long term strategies to orient the communities' and regions' economies for innovation, job creation, and export promotion. (5 Points)

c. Emphasizes some combination of public-private partnership, including higher education collaboration. (5 Points)

d. Demonstrates how this project will lead to further development of the region's industrial ecosystem. (5 points)

10. State Director's Points Based on Project Merit—Maximum 20 Points

a. This criterion will be addressed by the Agency, not the applicant.

b. Up to 20 points may be awarded by the Rural Development State Director to any application that benefits their state regardless of whether the applicant is headquartered in their state.

c. When an intermediary submits an application that will benefit a state that is not the same as the state in which the intermediary is headquartered, it is the intermediary's responsibility to notify the State Director of the state which is receiving the benefit of their application. In such cases, State Directors awarding points to applications benefiting their state must notify the reviewing state in writing.

d. State Directors have a maximum of 20 points per state that may be awarded to one or more applications.

e. The total points that may be awarded to any application may not exceed 20.

f. Assignment of any points under this criterion requires a written justification and must be tied to and awarded based on how closely the application aligns with the Rural Development State Office's strategic goals.

11. Support of Agency's Strategic Goals—Maximum 20 Points

This criterion will be addressed by the Agency, not the applicant. The Agency Administrator may award up to 20 points to any application to the extent that the application supports Strategic Goal One in the USDA Strategic Plan 2014–2018. This plan can be found at the following link: *www.usda.gov/documents/usda-strategic-plan-fy-2014-2018.pdf.*

12. StrikeForce, Promise Zones and census tracts with poverty rates greater than or equal to 20 percent—Maximum 20 Points

Applicants can receive 20 points if their project is based in or serving StrikeForce, Promise Zones or census tracts with poverty rates greater than or equal to 20 percent and are eligible under this RCDI program. This emphasis will support Rural Development's mission of improving the quality of life for rural Americans and our commitment to directing resources to those who most need them.

USDA's StrikeForce for Rural Growth and Opportunity Initiative is part of the Agency's commitment to growing economies, increasing investments and creating opportunities in poverty-stricken rural communities. The Promise Zone Initiative designates a number of high poverty urban, rural and tribal communities as Promise Zones, where the federal government will partner with and invest in communities to create jobs, leverage private investment, increase economic activity, expand educational opportunities, and improve public safety. For a listing of StrikeForce areas and designated Promise Zones, click on the following link: *http://www.usda.gov/wps/portal/usda/usdahome?navid=STRIKE_FORCE,* then click the StrikeForce or Promise Zones button from the left menu. For a mapping tool identifying census tracts with poverty rates greater than or equal to 20 percent, click on the following link: *http://rdgdwe.sc.egov.usda.gov/rdpoverty/index.html.*

The maximum 20 points for this criterion will be awarded for any of the following:

a. StrikeForce—The project serves a StrikeForce area. Identify the StrikeForce area and clearly demonstrate to what extent the project will support the StrikeForce area.

b. Promise Zones—The project serves a Promise Zone, and eligible applicant provides evidence of partnership with a Promise Zone Lead Applicant organization. Identify the specific Promise Zone, the expected benefits of the project to the Promise Zone strategy, and a statement expressing the nature of the partnership with the Promise Zone Lead Applicant organization. Or,

c. Poverty greater than or equal to 20 percent—At least 50 percent of the combined recipient(s) service area includes census tracts with poverty rates greater than or equal to 20 percent. Must provide the address and census tract in which the recipient will conduct or deliver approved project activity.

B. Review and Selection Process

1. Rating and ranking

Applications will be rated and ranked on a national basis by a review panel

based on the ''Evaluation Criteria'' contained in this Notice.

If there is a tied score after the applications have been rated and ranked, the tie will be resolved by reviewing the scores for ''Building Capacity'' and the applicant with the highest score in that category will receive a higher ranking. If the scores for ''Building Capacity'' are the same, the scores will be compared for the next criterion, in sequential order, until one highest score can be determined.

2. Initial screening

The Agency will screen each application to determine eligibility during the period immediately following the application deadline. Listed below are examples of reasons for rejection from previous funding rounds. The following reasons for rejection are not all inclusive; however, they represent the majority of the applications previously rejected.

a. Recipients were not located in eligible rural areas based on the definition in this Notice.

b. Applicants failed to provide evidence of recipient's status, i.e., documentation supporting nonprofit evidence of organization.

c. Applicants failed to provide evidence of committed matching funds or matching funds were not committed for a period at least equal to the grant performance period.

d. Application did not follow the RCDI structure with an intermediary and recipients.

e. Recipients were not identified in the application.

f. Intermediary did not provide evidence it had been incorporated for at least 3 years as the applicant entity.

g. Applicants failed to address the ''Evaluation Criteria.''

h. The purpose of the proposal did not qualify as an eligible RCDI purpose.

i. Inappropriate use of funds (e.g., construction or renovations).

j. The applicant proposed providing financial and technical assistance directly to individuals.

k. The application package not received by closing date and time.

Part VI—Award Administration Information

A. General Information

Within the limit of funds available for such purpose, the awarding official of the Agency shall make grants in ranked order to eligible applicants under the procedures set forth in this Notice.

B. Award Notice

Applicants will be notified of selection by letter. In addition, selected applicants will be requested to verify that components of the application have not changed at the time of selection and on the award obligation date, if requested by the Agency.

The award is not approved until all information has been verified, and the awarding official of the Agency has signed Form RD 1940–1, ''Request for Obligation of Funds.''

Unsuccessful applicants will receive notification including appeal rights by mail.

C. Administrative and National Policy Requirements

Grantees will be required to do the following:

1. Execute a Rural Community Development Initiative Grant Agreement.

2. Execute Form RD 1940–1.

3. Use Form SF 270, ''Request for Advance or Reimbursement,'' to request reimbursements. Provide receipts for expenditures, timesheets and any other documentation to support the request for reimbursement.

4. Provide financial status and project performance reports on a quarterly basis starting with the first full quarter after the grant award.

5. Maintain a financial management system that is acceptable to the Agency.

6. Ensure that records are maintained to document all activities and expenditures utilizing RCDI grant funds and matching funds. Receipts for expenditures will be included in this documentation.

7. Provide annual audits or management reports on Form RD 442–2, ''Statement of Budget, Income and Equity,'' and Form RD 442–3, ''Balance Sheet,'' depending on the amount of Federal funds expended and the outstanding balance.

8. Collect and maintain data provided by recipients on race, sex, and national origin and ensure recipients collect and maintain the same data on beneficiaries. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity,'' (62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

9. Provide a final project performance report.

10. Identify and report any association or relationship with Rural Development employees.

11. The intermediary and recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Executive Order 12250, and 7 CFR part 1901, subpart E.

12. The grantee must comply with policies, guidance, and requirements as described in the following applicable OMB Circulars and Code of Federal Regulations:

a. OMB Circular A–87 (Cost Principles for State, Local, and Indian Tribal Government);

b. OMB Circular A–122 (Cost Principles for Non-profit Organizations);

c. OMB Circular A–133 (Audits of States, Local Governments, and Non-Profit Organizations);

d. 7 CFR part 3015 (Uniform Federal Assistance Regulations);

e. 7 CFR part 3016 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments);

f. 2 CFR parts 417 and 180 (Government-wide Debarment and Suspension (Nonprocurement);

g. 7 CFR part 3019 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations); and

h. 7 CFR part 3052 (Audits of States, Local Governments, and Non-Profit Organizations).

D. Reporting

Reporting requirements can be found in the Grant Agreement.

Part VII—Agency Contact

Contact the Rural Development office in the State where the applicant's headquarters is located. A list of Rural Development State Offices is included in this Notice.

Part VIII—Nondiscrimination Statement

Non-Discrimination Policy

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

To File a Program Complaint

If you wish to file a Civil Rights program complaint of discrimination, complete the *USDA Program Discrimination Complaint Form (PDF),* found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form.

You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Persons With Disabilities

Individuals who are deaf, hard of hearing, or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities who wish to file a program complaint, please see information above on how to contact us by mail directly or by email.

If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Part IX—Appeal Process

All adverse determinations regarding applicant eligibility and the awarding of points as part of the selection process are appealable pursuant to 7 CFR part 11. Instructions on the appeal process will be provided at the time an applicant is notified of the adverse decision.

In the event the applicant is awarded a grant that is less than the amount requested, the applicant will be required to modify its application to conform to the reduced amount before execution of the grant agreement. The Agency reserves the right to reduce or withdraw the award if acceptable modifications are not submitted by the awardee within 15 working days from the date the request for modification is made. Any modifications must be within the scope of the original application.

Dated: August 1, 2014.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2014–19132 Filed 8–12–14; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

[Docket No.: 140605479–4629–02]

Privacy Act New System of Records

AGENCY: Department of Commerce.

ACTION: Notice; Commerce/Department-1, Attendance, Leave, and Payroll Records of Employees and Certain Other Persons.

SUMMARY: The Department of Commerce (Commerce) publishes this notice to announce the effective date of a Privacy Act System of Records entitled Commerce/Department-1, Attendance, Leave, and Payroll Records of Employees and Certain Other Persons.

The notice of proposed amendment to this system of records was published in the **Federal Register** on June 27, 2014.

DATES: The system of records becomes effective on August 13, 2014.

ADDRESSES: For a copy of the system of records please mail requests to Dana Shields, National Oceanic and Atmospheric Administration, Room 5309, 1305 East-West Hwy, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Dana Shields, National Oceanic and Atmospheric Administration, 301–713–0850.

SUPPLEMENTARY INFORMATION: On June 27, 2014, the Department of Commerce published and requested comments on a proposed Privacy Act System of Records entitled Commerce/Department-1, Attendance, Leave, and Payroll Records of Employees and Certain Other Persons (79 FR 124). No comments were received in response to the request for comments. By this notice, the Department is adopting the proposed system as final without changes effective August 13, 2014.

Dated: August 4, 2014.

Brenda Dolan,

Freedom of Information and Privacy Act Officer, U.S. Department of Commerce.

[FR Doc. 2014–19131 Filed 8–12–14; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–107–2014]

Foreign-Trade Zone 158—Vicksburg/Jackson, Mississippi, Application for Subzone, Southern Motion, Inc., Pontotoc and Baldwyn, Mississippi

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Greater Mississippi Foreign-Trade Zone, Inc., grantee of FTZ 158, requesting subzone status for the facilities of Southern Motion, Inc., located in Pontotoc and Baldwyn, Mississippi. 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 August 7, 2014.

The proposed subzone (62.5 acres total) would consist of the following sites: *Site 1* (50 acres, 2 parcels)—Plant #1 located at 298 Henry Southern Drive and Plant #2 located at 195 Henry Southern Drive in Pontotoc (Pontotoc County); and, *Site 2* (12.5 acres)—Plant #3 located at 309 Robert M. Coggins Jr. Drive in Baldwyn (Prentiss County). The proposed subzone would be subject to the existing activation limit of FTZ 158. A notification of proposed production activity at the facilities has been docketed and is being processed separately (B–45–2014).

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

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 September 22, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 7, 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 Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: August 7, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–19149 Filed 8–12–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–825]

Stainless Steel Bar From Brazil: Final Results of Antidumping Duty Administrative Review; 2012–2013

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel bar (SSB) from Brazil. The period of review (POR) is February 1, 2012, through January 31, 2013. The review covers one producer/exporter of the subject merchandise, Villares Metals S.A. (Villares). We determine that subject merchandise has been sold at less than normal value (NV) during the POR.

DATES: *Effective Date:* August 13, 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 March 24, 2014, the Department published the *Preliminary Results* and invited interested parties to comment.[1] Carpenter Technology Corporation, Crucible Industries LLC, Universal Stainless & Alloy Products Inc., and Valbruna Slater Stainless, Inc. (collectively, the petitioners), and Villares filed case briefs on April 22, 2014 and April 23, 2014, respectively. The petitioners filed a rebuttal brief on April 28, 2014.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013. Therefore, all deadlines in this segment of the proceeding have been extended by 16 days.[2] Pursuant to the Tolling Memo, the deadline for the final results of this review was revised with a due date of July 22, 2014. On July 15, 2014, we extended the deadline for the final results to August 12, 2014.[3]

Scope of the Order

The merchandise subject to the order is SSB. The SSB subject to the order is currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes.[4] The written description is dispositive.

Analysis of Comments Received

All issues raised in the case briefs by parties to this proceeding are listed in the appendix to this notice. Parties' rebuttal comments and the Department's response to these issues are addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov*. The signed and the electronic versions of the memorandum are identical in content.

Changes to the Preliminary Results

For these final results we changed the quantity variable referenced in the margin-calculation program and, consequently, the results of the differential pricing analysis changed for Villares from the *Preliminary Results.*[5] Thus, we revised our comparison method to calculate Villares' final weighted-average dumping margin.

Final Results of Review

As a result of this review, we determine that a weighted-average dumping margin of 0.64 percent exists for Villares for the period February 1, 2012, through January 31, 2013.

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. Because the weighted-average dumping margin is above *de minimis,* we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of those same sales for each importer in accordance with 19 CFR 351.212(b)(l). In accordance with 19 CFR 351.212(b), we will instruct CBP to assess the importer-specific rate uniformly, as appropriate, on all entries of subject merchandise made by the relevant importer during the POR.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by Villares for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[6]

We intend to issue instructions to CBP 15 days after publication of these final results of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of SSB from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section

[1] *See Stainless Steel Bar From Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 15948 (March 24, 2014) (*Preliminary Results*).

[2] *See* Memorandum from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013) (Tolling Memo).

[3] *See* memorandum from Sandra Dreisonstok, International Trade Compliance Analyst, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Stainless Steel Bar from Brazil: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2012–2013'' dated July 15, 2014.

[4] A full description of the scope of the order is contained in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review of Stainless Steel Bar from Brazil; 2012–2013'' dated concurrently with this notice (Issues and Decision Memorandum), which is hereby adopted by this notice.

[5] *See* Issues and Decision Memorandum dated concurrently with this notice at Comments 1 and 2 for further discussion.

[6] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

751(a)(2) of the Tariff Act of 1930, as amended (the Act): (1) The cash deposit rate for Villares will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 19.43 percent, the all-others rate established in the *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Brazil,* 59 FR 66914 (December 28, 1994). These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These final results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: August 6, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. List of Comments
  Comment 1: Quantity Variable Referenced
  Comment 2: Differential Pricing Analysis
III. Background
IV. Scope of the Order
V. Changes to the *Preliminary Results*
VI. Discussion of the Issues
VII. Recommendation

[FR Doc. 2014–19148 Filed 8–12–14; 8:45 am]

BILLING CODE 3510–DS–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–1017; FRL–9912–79]

Iprodione, Pendimethalin, and Permethrin; Order To Amend Pesticide Registrations To Terminate Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA hereby orders, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), that the registrations of pesticide products containing iprodione, pendimethalin, and permethrin be amended to terminate certain uses. This order follows a May 9, 2014 **Federal Register** Notice of Receipt that announced and sought comment on requests from the registrants to voluntarily amend their registrations to terminate certain uses of these product registrations. These are not the last products containing these pesticide active ingredients that are registered for use in the United States. The Agency did not receive any comments concerning the registrants' requests; nor did the registrants subsequently withdraw their requests. Accordingly, EPA hereby issues this order granting the requests. Any distribution, sale, or use of the products subject to this order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The amendments are effective August 13, 2014.

FOR FURTHER INFORMATION CONTACT: John W. Pates, Jr., Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8195; email address: *pates.john@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. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2009–1017, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the EPA 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.*

II. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA, 7 U.S.C. 136d(f)(1), 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** and provide an opportunity for public comment. Thereafter, following the public comment period, EPA may approve such a request.

III. What action is the agency taking?

This order amends the registrations of certain products registered under FIFRA section 3, 7 U.S.C. 136a, in order to terminate certain uses. The amendments were specifically requested by the registrants. The amended registrations are listed in sequence by registration number in Table 1 of this unit, which also identifies the product names and terminated uses. These products are not the last products containing these

pesticide active ingredients that are registered for use in the United States.

TABLE 1—IPRODIONE, PENDIMETHALIN, AND PERMETHRIN PRODUCT REGISTRATION AMENDMENTS TO TERMINATE CERTAIN USES

EPA registration No.	Product name	Uses terminated
000270–00279	Farnam Purge Pesticide	Use on dogs.
000279–09562	Iprodione Technical	Use on rice.
000279–09564	Rovral® brand 4 Flowable Fungicide	Use on rice.
000279–09565	Rovral® R Flowable Fungicide	Use on rice.
000279–09566	Rovral® brand WG Fungicide	Use on rice.
000279–09567	Rovral® 50 SP Fungicide	Use on rice.
000279–09569	Rovral® brand 75WG Fungicide	Use on rice.
019713–00600	Drexel Pendimethalin Technical	Use on alfalfa, corn (field, pop, sweet), garlic, onions (dry bulb, green, welsh), peanuts, sorghum (grain), sugarcane, and sunflower.

Table 2 of this unit, includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by the EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS OF AMENDED PRODUCTS

EPA company No.	Company name and address
270	Farnam Companies, Inc. 301 West Osborn Rd. Phoenix, AZ 85013.
279	FMC Corp. Agricultural Products Group 1735 Market St. Room 1978 Philadelphia, PA 19103.
19713	Drexel Chemical Company P.O. Box 13327 Memphis, TN 38113–0327.

IV. Summary of Public Comments Received and Agency Response to Comments

In the **Federal Register** of May 9, 2014 (79 FR 26754) (FRL–9909–95), EPA announced and sought public comment on requests from the registrants to voluntarily amend their registrations to terminate uses of the products as listed in Table 1 of Unit III. In the May 9, 2014 notice, EPA indicated that it would issue an order implementing the requested amendments to terminate uses, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency did not receive any comments concerning that notice; nor did the registrants subsequently withdraw their requests.

V. EPA's Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested amendments to terminate uses of iprodione, pendimethalin, and permethrin registrations as identified in Table 1 of Unit III. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit III., are amended to terminate the uses as identified in Table 1 of Unit III. The effective date of the amendments that are subject to this order is August 13, 2014. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit III., in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI. will be a violation of FIFRA.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

Now that EPA has approved product labels reflecting the requested amendments to terminate uses, registrants are permitted to sell or distribute products listed in Table 1 of Unit III., under the previously approved labeling until February 15, 2016, a period of 18 months after publication of this order in the **Federal Register**, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the terminated uses identified in Table 1 of Unit III., except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of products whose labels include the terminated uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the products with terminated uses.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: July 31, 2014.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–19061 Filed 8–12–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD430

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) Peer Review Panel will meet over two days to review scientific information affecting New England fisheries in the exclusive economic zone (EEZ), and more specifically the management of Gulf of Maine cod.

DATES: The meeting will be held on Thursday, August 28, 2014 beginning at 9:30 a.m. and Friday, August 29, 2014 beginning at 9 a.m.

ADDRESSES: *Meeting Address:* The meeting will be held at the Sheraton Harborside Hotel, 250 Market Street, Portsmouth, NH 03801; telephone: (603) 431–2300; fax: (603) 433–5649.

Council Address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda Items

The SSC Peer Review Panel will meet to review an updated assessment for the Gulf of Maine cod stock prepared by the NMFS Northeast Fisheries Science Center. The panel will prepare a report of its review, although the panel may not complete the report at this meeting, for consideration by New England Fishery Management Council in developing management measures for Gulf of Maine cod. The review panel may close the meeting to the public at some time to work on drafting a report.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: August 8, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–19115 Filed 8–12–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC348

Endangered Species; File No. 17364–01

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

ACTION: Notice; receipt of application for permit modification.

SUMMARY: Notice is hereby given that the U.S. Fish and Wildlife Service (USFWS), Northeast Fishery Center, PO Box 75, Lamar, PA 16848 [Michael Millard: Responsible Party], has applied in due form for a permit modification [File No. 17364–01] to take captive Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) for purposes of conducting scientific research.

DATES: Written, telefaxed, or email comments must be received on or before September 12, 2014.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 17364–01 from the list of available applications.

These documents are also available upon written request or by appointment in the following office:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376;

Written comments on the application should be submitted to the Chief, Permits and Conservation Division

- by email to *NMFS.Pr1Comments@noaa.gov* (include the File No. 17364–01 in the subject line of the email);
- by facsimile to (301) 713–0376; or
- at the address listed above.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on the application(s) would be appropriate.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead at (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit modification is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 17364 was issued March 14, 2013 (78 FR 17640) with the Permit Holder's objectives stated as to refine propagation and culture techniques of captive Atlantic sturgeon held in refugia at the USFWS's Northeast Fisheries Center, providing a source of research animals for studies related to tagging, tracking, behavior, physiology, genetics, health, cryopreservation, and other methods for population conservation, recovery, or enhancement of the species in the wild.

The Permit Holder now proposes including five captive holding facilities of Atlantic sturgeon located in the state of Maryland, as well as co-investigators, to conduct similar scientific research on life stages of captive Atlantic sturgeon. Study objectives would include nutrition, physiology, propagation, contaminants, genetics, fish health, cryopreservation, tagging, and refugia. Additionally, studies would examine abiotic factors (e.g., pH, temperature, salinity dissolved oxygen, etc) influencing distribution and abundance in the wild. The modifications would be valid until expiration of the permit on March 13, 2018.

Dated: August 7, 2014.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–19074 Filed 8–12–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. 2014–0049]

Notice of Industry Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of industry meeting.

SUMMARY: DoD announces a meeting open to representatives of athletic shoe manufacturers to address DoD policy with regard to applicability of the Berry Amendment to athletic shoes for recruits at basic training.

DATES: September 4, 2014, 3:00–5:00 p.m., EDT.

ADDRESSES: The meeting will be held at the Pentagon, Washington, DC 20301; Pentagon Conference Center, Conference Room B3. Please limit attendance to two (2) individuals representing a single company and RSVP to the point of contact listed below not later than August 29, 2014 with the following minimum information: Name; Contact Information (email and phone number); Company you are representing; and Country of citizenship. Individuals visiting the Pentagon must adhere to the following security instructions when entering the facility: *http://www.pfpa.mil/access.html.* Visitors will enter the Pentagon from the Metro Entrance and will require an escort at all times within the facility. Attendees are encouraged to arrive at least 30 minutes early to accommodate security procedures.

FOR FURTHER INFORMATION CONTACT: Office of the Director, Defense Procurement and Acquisition Policy, ATTN: Mr. Jeff Grover, OUSD(AT&L)DPAP/CPIC, 3060 Defense Pentagon, Washington, DC 20301–3060. Mr. Jeff Grover may be contacted by

email at *jeffrey.c.grover.civ@mail.mil* or by telephone at 703–697–9352. Please cite athletic shoe industry meeting.

SUPPLEMENTARY INFORMATION: 10 U.S.C. 2533a, popularly known as the ''Berry Amendment'', prohibits the Department of Defense (DoD) from using funds appropriated or otherwise available to it for the procurement of certain items if those items are not grown, reprocessed, reused, or produced in the United States. Articles of clothing, such as athletic shoes, are normally covered by the prohibition if procured on a Department of Defense (DoD) contract using appropriated funds. See DoD policy with respect to athletic shoes offered to recruits at basic training at: *http://www.acq.osd.mil/dpap/cpic/docs/OSD004508-14%20FOD.pdf.* This industry meeting will provide information relating to this policy and is open to representatives of athletic shoe manufacturers (Federal Supply Classification (FSC) Code: 84—Clothing, Individual Equipment, and Insignia; National American Industry Classification System (NAICS) Code: 316—Leather and Allied Product Manufacturing/316210—Footwear Manufacturing; Standard Industrial Classification (SIC) Code: 3149).

Special accommodations: The public meeting is physically accessible to people with disabilities. Requests for reasonable accommodations, sign language interpretation or other auxiliary aids should be directed to Mr. Jeff Grover at 703–697–9352, at least 10 working days prior to the meeting date.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–19181 Filed 8–12–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Record of Decision for the Second Main Operating Base KC–46A Beddown at Alternative Air National Guard Installations

ACTION: Notice of Availability (NOA) of a Record of Decision (ROD).

SUMMARY: On August 5, 2014, the United States Air Force signed the ROD for the Second Main Operating (MOB–2) Base KC–46A Beddown at Alternative Air National Guard (ANG) Installations Final Environmental Impact Statement (FEIS). The ROD states the Air Force decision to implement the Preffered Alternative to beddown up to twelve (12) KC–46A Primary aircraft authorized (PAA) under the National Guard Bureau for MOB–2 at Pease Air National Guard Station.

The decision was based on matters discussed in the FEIS, inputs from the public and regulatory agencies, and other relevant factors. The FEIS was made available to the public on June 20, 2014 through a NOA in the **Federal Register** (Volume 79, Number 119, Page 35347) with a wait period that ended on July 20, 2014. The ROD documents only the decision of the Air Force with respect to the proposed Air Force actions analyzed in the FEIS. Authority: This NOA is published pursuant to the regulations (40 CFR 1506.6) implementing the provisions of the NEPA of 1969 (42 U.S.C. 4321, *et seq.*) and the Air Force's Environmental Impact Analysis Process (EIAP) (32 CFR 989.21(b) and 989.24(b)(7)).

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Marek, NGB/A7AM, 3501 Fetchet Avenue, JB Andrews, MD 20762, ph: 240/612–8855.

Henry Williams,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2014–19126 Filed 8–12–14; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Army

Record of Decision for the Implementation of Energy, Water, and Solid Waste Sustainability Initiatives at Fort Bliss, TX and NM

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army and Fort Bliss announce the decision to proceed with the Preferred Alternative identified in the Final Environmental Impact Statement (FEIS) for the Implementation of Energy, Water, and Solid Waste Sustainability Initiatives, which allows Fort Bliss to implement Net Zero initiatives, comply with federal and Army energy mandates, and meet the Army's energy and water security objectives. The Record of Decision (ROD) explains the potential environmental and socioeconomic impacts associated with the proposed action, which consists of multiple, related, and interconnected projects with the goal of conserving energy and water, and reducing waste production. The selected alternative provides the proper balance of initiatives for the protection of environmental and mission-essential actions. The ROD also identifies mitigation that will reduce or eliminate adverse impacts.

ADDRESSES: The ROD can be obtained at *https://www.bliss.army.mil/dpw/Environmental/EISDocuments2.html.* Written requests to obtain a copy of the ROD should be addressed to Dr. John Kipp, Fort Bliss Directorate of Public Works, Attention: IMBL–PWE (Kipp), Building 624 Pleasonton Road, Fort Bliss, TX 79916; email: *john.m.kipp6.civ@mail.mil;* fax: (915) 568–3548.

FOR FURTHER INFORMATION CONTACT: Please contact Ms. Donita Kelley, Fort Bliss Public Affairs Office, Attention: IMBL–PA (Kelley), Building 15 Slater Road, Fort Bliss, TX 79916; phone: (915) 568–4505; email: *donita.k.schexnaydre.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: The Army examined the potential environmental and socioeconomic impacts from implementing multiple, related, and interconnected proposed projects that could be taken to implement Net Zero energy, water, and waste initiatives, comply with federal and Army energy mandates, and meet the Army's energy and water security objectives. Not all projects identified in the ROD would be implemented to the full extent discussed in the FEIS. Technological advancements, legislative changes, and other factors may result in revisions to the proposed projects.

The selected action alternative consists of six action alternatives (Alternatives 2 through 7): implementation of conservation policies and procedures (Alternative 2); construction of a water reclamation pipeline (Alternative 3); construction and operation of a waste-to-energy plant (Alternative 4); construction and operation of a geothermal energy facility (Alternative 5); and construction of dry-cooled concentrating solar power technology (Alternative 6). Alternative 7 proposes implementation of other renewable energy technologies and projects that are compatible with installation planning criteria and address potential future renewable energy, water, and waste technology actions at a programmatic level. Alternative 4, waste-to-energy plant, was analyzed from a programmatic perspective only. The Army will conduct further analysis of specific sites, should it consider pursuing this type of technology in the future. As warranted, additional site-specific analyses will occur for other projects, as well.

The ROD incorporates analyses contained in the FEIS for the Implementation of Energy, Water, and

Solid Waste Sustainability Initiatives, including comments provided during formal comment and review periods. As a result of comments made on the Draft Environmental Impact Statement (DEIS), changes in the FEIS included the removal of site-specific locations for a proposed waste-to-energy plant, with analysis of the alternative now from a programmatic perspective only. The ROD contains a commitment to identify new potential sites and conduct further analysis, should the Army consider pursuing this type of technology in the future.

Implementation of this decision is expected to result in direct, indirect, and cumulative impacts to Fort Bliss. Environmental impacts are expected as a result of construction and operation of renewable energy technologies and conservation policies and procedures. The potential for significant environmental impacts is greatest for air quality, vegetation, archeological sites, soils, land use, and traffic. Of these, all but land use (as a result of converting training land to developed land) and soils (disturbance of up to 300 acres for construction of concentrating solar power arrays) are anticipated to be mitigable to less than significant. Potentially beneficial impacts are projected for air quality, energy demand and generation, socioeconomics, water supply sources, water demand, and wastewater reuse. To minimize the potential adverse impacts from implementation of the Proposed Action, the Army will mitigate these potential effects through a variety of strategies, as described in the ROD. All practicable means to avoid or minimize environmental harm from the selected alternatives have been adopted.

The selected alternative provides the necessary policies, procedures, and infrastructure upgrades to meet DoD requirements. The decision provides the proper balance of initiatives for the protection of the environment and supports the U.S. Army's Net Zero initiatives in concert with supporting on-going and future mission requirements.

The ROD contains a summary of the environmental impacts and rationale for the Army's decision.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2014–19125 Filed 8–12–14; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Termination of Environmental Impact Statement for Baryonyx Corporation, Inc.'s Proposed Wind Farm, Offshore, Willacy and Cameron Counties, TX

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The U.S. Army Corps of Engineers, Galveston District, Regulatory Branch is notifying interested parties that it has terminated the process to develop an Environmental Impact Statement (EIS) and has withdrawn the Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344) permit application for the proposed Baryonyx Corporation, Inc. 300-turbine offshore wind farm located in the Gulf of Mexico state waters, offshore Willacy and Cameron Counties in state tracts: 1068, 1069, 1085, 1086, 1087, 1088, 1089, 1090, 1126, 1127, 1129, 1130 and 1131. The original Notice of Intent to Prepare and EIS was published in the **Federal Register** on Wednesday, March 14, 2012 (77 FR 15088).

FOR FURTHER INFORMATION CONTACT: Questions regarding the termination of this EIS process should be addressed to: Jayson M. Hudson, U.S. Army Corps of Engineers, Regulatory Branch, P.O. Box 1229, Galveston, TX 77553–1229; (409) 766–3108; or *Email: SWG2011511@usace.army.mil.* Emailed question, including attachments, should be provided in .doc, .docx, .pdf or .txt formats.

SUPPLEMENTARY INFORMATION: The Galveston District published the original Notice of Intent to prepare an EIS for the proposed Baryonyx offshore wind farm (SWG–2011–00511) in the **Federal Register** on Wednesday, March 14, 2012 (77 FR 15088). After the initial public scoping process in March 2012, the Corps received 1156 substantive comments related to the applicant's proposal construction of approximately 300 offshore turbines in the Gulf of Mexico offshore Willacy and Cameron Counties, TX. Common concerns with the proposed project included potential impacts to migratory birds/bats, threatened and endangered species, marine resources (including essential fish habitat), navigation/transportation, terrestrial wildlife, socioeconomics, wetlands/submerged aquatic vegetation (SAV), other, including viewshed, water and sediment quality, terrestrial and marine cultural, resources, offshore and onshore corridor analysis, coastal processes, recreation, storm surge, hazardous materials, air quality, noise, land use, geology, and coastal zone management. Based on comments submitted during this scoping process, the Corps began drafting an EIS in cooperation with the Environmental Protection Agency, National Park Service, and the U.S. Coast Guard; however, a draft EIS has not been published. By letter dated May 12, 2014, Baryonyx Corporation, Inc. requested withdrawal of their Department of the Army permit application. The applicant stated that their intent is to redefine the project and resubmit at a future date. Therefore, the Corps officially determined that it is appropriate to terminate the EIS. The Corps' neutral role in the EIS process was to evaluate the environmental consequences of the proposed project under the authority of Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. The preparation of the EIS was being conducted by a third-party contractor directed by the Corps, and funded by the applicant, which is typical of the Corps Regulatory EIS studies. Withdrawal of the permit application and termination of the EIS process will not prevent Baryonyx Corporation, Inc. from reapplying at a later date.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2014–19127 Filed 8–12–14; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0114]

Agency Information Collection Activities; Comment Request; State Plan of Assistive Technology

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

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

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

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting

Docket ID number ED–2014–ICCD–0114 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Robert Groenendaal, 202–245–7393.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: State Plan of Assistive Technology.

OMB Control Number: 1820–0664.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Federal Government.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 4,144.

Abstract: Section 4 of the Assistive Technology Act of 1998, as amended, requires states to submit an application in order to receive funds under the state grant for assistive technology program. This information collection will be used by states to meet their application requirements and annual data reports. The Rehabilitation Services Administration (RSA) calls this application a State Plan for Assistive Technology. RSA has eliminated the reporting of Telework activities under State Financing activities and reduced burden to grantees by setting the performance measure targets in section H of the State Plan.

Dated: August 7, 2014.

Tomakie Washington,

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

[FR Doc. 2014–19068 Filed 8–12–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0113]

Agency Information Collection Activities; Comment Request; Annual Progress Report for the Access to Telework Program Under the Rehabilitation Act of 1973, as Amended

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

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

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

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0113 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Robert Groenendaal, 202–245–7393.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Annual Progress Report for the Access to Telework Program under the Rehabilitation Act of 1973, as Amended.

OMB Control Number: 1820–0687.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 19.

Total Estimated Number of Annual Burden Hours: 219.

Abstract: Nineteen states currently have Access to Telework programs that provide financial loans to individuals

with disabilities for the purchase of computers and other equipment that support teleworking for an employer or self-employment on a full or part-time basis. These grantees are required to report annual data on their programs to the Rehabilitation Services Administration. This information collection provides a standard format for the submission of those annual performance reports and a follow-up survey to be administered to individuals who receive loans.

The proposed instrument eliminates an entire section of optional information that is not required for submission by the Telework grantees, further reducing the burden from approximately 12.5 hours to 11 hours per state. Section C. Telework Optional Data Elements, which are not annual reporting requirements for the Telework grantees, has been proposed for removal from the current instrument. The information collected in this optional data section includes: 1. Types of Telework programs (partnership loans or revolving loans), 2. Interest Rates (lowest and highest interest rates established by policy), 3. Loan Amounts (lowest and highest loan amounts established by policy), 4. Repayment Terms (shortest and longest repayment terms established by policy), and Loan Guarantee Requirement, the percentage of the loans that must be repaid by the alternative financing program (AFP) to the lender in case of default as established by the agreement with the lender. Since the data reported under C. Telework Optional Data Elements of the current instrument is not required, grantees did not report this information uniformly across programs. If every grantee doesn't report in this section, then the data can't be reported in aggregate form. This optional section contains information about program features and descriptions that may or may not change on an annual basis. Since there is limited utility to the annual reporting of this optional information, the decision was made to further reduce the burden to all grantees by eliminating this section from the current instrument in the Management Information System (MIS).

Dated: August 7, 2014.

Tomakie Washington,

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

[FR Doc. 2014–19067 Filed 8–12–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0117]

Agency Information Collection Activities; Comment Request; National Evaluation of the Investing in Innovation (i3) Program

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

ACTION: Notice.

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

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

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0117 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tracy Rimdzius, 202–208–7154.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Evaluation of the Investing in Innovation (i3) Program.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 130.

Total Estimated Number of Annual Burden Hours: 1,507.

Abstract: This submission requests approval to collect data in support of the National Evaluation of the Investing in Innovation (i3) Program. The i3 Program is designed to support school districts and nonprofit organizations in expanding, developing, and evaluating evidence-based practices and promising efforts to improve outcomes for the nations' students, teachers, and schools. Each i3 grantee is required to fund an independent evaluation. The National Evaluation of i3 (NEi3) requires data collection to assess the strength of the evidence produced under the grantees independent evaluations as well as provide a cross-site summary of the findings. Specifically, the data collected for the NEi3 will be used to support reviews and reports to ED that: describe the intervention implemented by each i3 grantee; assess the strength of the evidence produced by each i3 evaluation; present the evidence produced by each i3 evaluation; identify effective and promising interventions; and, assess the results of the i3 Program. The NEi3 will collect data from the universe of all 117 i3 projects funded under the i3 Program through FY 2013.

Dated: August 7, 2014.

Stephanie Valentine,

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

[FR Doc. 2014–19059 Filed 8–12–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0078]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Annual Progress Reporting Form for the American Indian Vocational Rehabilitation Services (AIVRS) Program

AGENCY: Office of Special Education and Rehabilitative Services(OSERS), Department of Education (ED).

ACTION: Notice.

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

DATES: Interested persons are invited to submit comments on or before September 12, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0078 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Alfreda Reeves, 202–245–7485.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Annual Progress Reporting Form for the American Indian Vocational Rehabilitation Services (AIVRS) Program.

OMB Control Number: 1820–0655.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 85.

Total Estimated Number of Annual Burden Hours: 1,063.

Abstract: The Rehabilitation Services Administration (RSA) of the U.S. Department of Education (ED) will use this data collection form to capture the annual performance report data from grantees funded under the American Indian Vocational Rehabilitation Services (AIVRS) program. RSA and ED will use the information gathered annually to: (a) Comply with reporting requirements under Section 75.118 of the Education Department General Administration Regulations (EDGAR), (b) provide annual information to Congress on activities conducted under the program, (c) measure performance on the program in accordance with the program indicators identified in the Government Performance Result Act (GPRA), and (d) collect information that is consistent with the common measures for federal job training programs.

The proposed changes to the existing form will improve user friendliness, clarity of data questions, and accuracy of data reported. These revisions are not of a substantial manner nor significantly different from the original collection, but are proposed to provide clarity and consistency. In many areas, the data element language has been modified with direct language instead of passive terminology.

Dated: August 7, 2014.

Tomakie Washington,

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

[FR Doc. 2014–19066 Filed 8–12–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice and Request for Comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection request with the Office of Management and Budget (OMB). Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this proposed information collection must be received on or before October 14, 2014. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Written comments may be sent to Sharon Archer by fax at 202–287–1349 or by email to *Sharon.Archer@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Sharon Archer at 202–287–1739 or by fax at 202–287–1349 or by email at *Sharon.Archer@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No.: 1910–4100; (2) Information Collection Request Title: Procurement Requirements; (3) Type of Review: Renewal; (4) Purpose: Under 48 CFR part 952 and Subpart 970.52, DOE

must collect certain types of information from those seeking to do business with the Department or those awarded contracts by the Department. This package contains information collections necessary for the solicitation, award, administration, and closeout of procurement contracts. (5) Annual Estimated Number of Respondents: 7,529; (6) Annual Estimated Number of Total Responses: 7,529; (7) Annual Estimated Number of Burden Hours: 896,199; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: $71,695,920.

Statutory Authority: 42 U.S.C. 2201.

Issued in Washington, DC, on August 4, 2014.

Patrick M. Ferraro,

Deputy Director, Office of Acquisition and Project Management.

[FR Doc. 2014–19139 Filed 8–12–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 14–005–CIC]

Freeport LNG Expansion, L.P.; FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC; Request for Change in Control

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on July 3, 2014, by Freeport LNG Expansion, L.P., FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC, and FLNG Liquefaction 3, LLC (collectively, FLEX), requesting approval to transfer indirect control of four export authorizations jointly held by these entities, including two authorizations to export liquefied natural gas (LNG) to any country with which the United States has a free trade agreement (FTA) that requires national treatment for trade in natural gas (FTA countries), and two conditional authorizations to export LNG to countries with which the United States does not have a FTA that requires national treatment for trade in natural gas (non-FTA countries). FLEX seeks approval to transfer its authorizations pursuant to 10 CFR 590.405, which states that ''[a]uthorizations by the Assistant Secretary to import or export natural gas shall not be transferable or assignable, unless specifically authorized by the Assistant Secretary.''

This Notice addresses the proposed indirect changes in control of FLEX's two non-FTA conditional authorizations, which DOE/FE issued pursuant to section 3(a) of the Natural Gas Act (NGA), 15 U.S.C. 717b(a). The portion of the Application addressing FLEX's two FTA authorizations will be reviewed separately pursuant to section 3(c) of the NGA, 15 U.S.C. 717b(c), and are not subject to this Notice.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, September 2, 2014.

ADDRESSES: *Electronic Filing by email: fergas@hq.doe.gov.*

Regular Mail: U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Benjamin Nussdorf, U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–9387.

Cassandra S. Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–9793.

SUPPLEMENTARY INFORMATION:

Background

Applicants. Freeport LNG Expansion, L.P. is a Delaware limited partnership and a wholly owned subsidiary of Freeport LNG Development, L.P. Its principal place of business is in Houston, Texas.

FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC, and FLNG Liquefaction 3, LLC are Delaware limited liability companies and wholly owned subsidiaries of Freeport LNG Expansion, L.P. They also have their principal place of business in Houston, Texas.

The ultimate FLEX parent company, Freeport LNG Development, L.P., is a Delaware limited partnership. It owns and operates the Freeport LNG Terminal located on Quintana Island, southeast of the City of Freeport in Brazoria County, Texas.

Procedural History. FLEX's Application concerns the indirect control of four export authorizations issued by DOE/FE, beginning in 2011. The detailed procedural history of these authorizations and related amendments is summarized in DOE/FE Order Nos. 3282–B and 3357–A.[1] Below, we provide a brief overview of each of the four authorizations:

LNG EXPORT AUTHORIZATIONS HELD BY THE FLEX ENTITIES

DOE/FE Docket No.	DOE/FE Order No.	Type of authorization	Date issued	Export volume authorized	Subject to this notice?
10–160–LNG	[2] 2913–A	FTA	February 10, 2011	1.4 billion cubic feet per day (Bcf/d) (511 Bcf per year (Bcf/yr)).	No.
10–161–LNG	[3] 3282–B	Non-FTA Conditional	May 17, 2013	1.4 Bcf/d (511 Bcf/yr)	Yes.
11–161–LNG	[4] 3357–A	Non-FTA Conditional	November 15, 2013	0.4 Bcf/d (146 Bcf/yr)	Yes.
12–06–LNG	[5] 3066–A	FTA	February 10, 2012	1.4 Bcf/d (511 Bcf/yr)	No.

[1] *See Freeport LNG Expansion, L.P., et al.,* DOE/FE Order Nos. 3282–B, 3357–A, Docket Nos. 10–161–LNG, 11–161–LNG, Order Amending DOE/FE Order Nos. 3282 and 3357, at 2–5 (June 6, 2014).

[2] *Freeport LNG Expansion, L.P., et al.,* DOE/FE Order No. 2913, Docket No. 10–160–LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from the Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011), *as amended,* DOE/FE Order No. 2913–A (Feb. 7, 2014).

[3] *Freeport LNG Expansion, L.P., et al.,* DOE/FE Order No. 3282, Docket No. 10–161–LNG, Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas to Non-Free Trade Agreement Nations (May 17, 2013), *as amended,* DOE/FE Order No. 3282–A (Feb. 7, 2014) & DOE/FE Order No. 3282–B (June 6, 2014) [hereinafter *Freeport I*].

In sum, FLEX is currently authorized to export LNG from the Freeport LNG Terminal as follows: (1) To FTA countries, in a total volume equivalent to 2.8 Bcf/d of natural gas (1022 Bcf/yr), and (2) to non-FTA countries, in a total volume equivalent to 1.8 Bcf/d (657 Bcf/yr). We note that the export volumes authorized in the two FTA orders are not additive to the export volumes conditionally authorized in the two non-FTA orders.[6]

FLEX filed its Application in this proceeding on July 3, 2014. Thereafter, FLEX submitted to DOE/FE a total of four supplements to the Application via electronic mail, all of which are posted on the docket and incorporated herein.

Current Application

Pursuant to 10 CFR 590.405, FLEX seeks approval for the proposed indirect changes in control of FLNG Liquefaction, LLC (FLIQ1) and FLNG Liquefaction 2, LLC (FLIQ2). Both are Delaware limited liability companies with their principal place of business in Houston, Texas.

According to FLEX, the proposed indirect changes in control are necessary components of the financing of the FLEX liquefaction project. FLEX further asserts that DOE/FE approval is ''critically time sensitive'' in light of certain financing requirements anticipated to occur early in the fourth quarter of 2014.[7]

Proposed Ownership of Liquefaction Trains. As stated in the Application and discussed in prior orders,[8] the FLEX export facilities initially will include three liquefaction trains, each having long-term liquefaction tolling agreements (LTAs) as follows:

- FLIQ1 will own the initial liquefaction train (Train 1). It has entered into a LTA with each of Osaka Gas Co., Ltd. (Osaka Gas) and Chubu Electric Power Co., Inc. (Chubu Electric).[9] The LTAs will commence upon achieving commercial operation of Train 1.
- FLIQ2 will own the second liquefaction train (Train 2). It has entered into a LTA with BP Energy Company (BP) that will commence upon achieving commercial operation of Train 2.
- FLNG Liquefaction 3, LLC (FLIQ3) will own the third liquefaction train (Train 3). It has entered into a LTA with each of Toshiba Corporation and SK E&S LNG, LLC. The LTAs will commence upon achieving commercial operation of Train 3.

According to FLEX, the capital costs for the construction of Train 1, Train 2, and Train 3 will be separately financed by FLIQ1, FLIQ2, and FLIQ3, respectively, with equity and debt financing provided by third parties.

FLNG Liquefaction 1, LLC (FLIQ1). FLEX states that the FLIQ1 debt requirements will be provided by the Japan Bank for International Cooperation and a consortium of commercial banks. The approximately $1.2 billion FLIQ1 equity requirements for Train 1 will be provided 50% each by Osaka Gas and Chubu Electric through their wholly owned U.S. subsidiaries, which have not yet been formed. For purposes of the Application, these planned U.S. subsidiaries are referred to as ''Osaka Gas Member'' and ''Chubu Member,'' respectively.[10]

In exchange for this capital, Osaka Gas Member and Chubu Member each will receive an ownership interest in FLIQ1's 100% parent company, FLIQ1 Holdings, LLC. The remaining ownership interest in FLIQ1 Holdings will be retained by its current parent, Freeport LNG Expansion, L.P.

FLEX further states that, following the new equity investments by Osaka Gas Member and Chubu Member in FLIQ1 Holdings, all votes with respect to FLIQ1 Holdings and indirectly, FLIQ1, will require the unanimous consent of Freeport Expansion, Osaka Gas Member, and Chubu Member (or, at a minimum, one appointee of each of them to the Board of Managers of FLIQ1 Holdings). According to FLEX, this voting control will grant each of Freeport Expansion, Osaka Gas Member, and Chubu Member equal power to direct management and policies of FLIQ1.

FLNG Liquefaction 2, LLC (FLIQ2). FLEX states that the FLIQ2 debt requirements will be sourced from the U.S. project finance bank markets. The approximately $1.3 billion in FLIQ2 equity requirements for Train 2 will be provided by the IFM Global Infrastructure Fund (IFM), a global infrastructure investment fund advised by IFM Investors.[11] FLEX states that IFM is a trust company established under the laws of the Cayman Islands, where it has its principal place of business.

In exchange for the capital, IFM will receive an ownership interest in FLIQ2's 100% parent company, FLIQ2 Holdings, LLC. The IFM entity that will hold the ownership interest in FLIQ2 Holdings will be IFM FLIQ Holding GP, which is a general partnership under Delaware law. The remaining ownership interest in FLIQ2 Holdings will be retained by its current parent, Freeport Expansion.

FLEX states that, following the new equity investment by IFM in FLIQ2 Holdings, all votes with respect to FLIQ2 Holdings and, indirectly, FLIQ2, will require the unanimous consent of Freeport Expansion and IFM. Consequently, this voting control will grant each of Freeport Expansion and IFM equal power to direct the management and policies of FLIQ2.[12]

Freeport LNG Terminal Operations and Export Administration. FLEX asserts that, under its proposal, operation and maintenance of the Freeport LNG facilities (both regasification and liquefaction) will remain under the control of Freeport LNG Development, L.P. through various contractual arrangements with FLIQ1, FLIQ2, and FLIQ3. As noted above, Freeport Development is the ultimate 100% parent of Freeport Expansion. No change in control is proposed with respect to either Freeport Development or Freeport Expansion. FLEX states that Freeport Expansion will be the single point of contact with DOE/FE with

[4] *Freeport LNG Expansion, L.P., et al.,* DOE/FE Order No. 3357, Docket No. 11–161–LNG, Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas to Non-Free Trade Agreement Nations (Nov. 15, 2013), *as amended,* DOE/FE Order No. 3357–A (June 6, 2014) [hereinafter *Freeport II*].

[5] *Freeport LNG Expansion, L.P., et al.,* DOE/FE Order No. 3066, Docket No. 12–06–LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2012), *as amended,* DOE/FE Order No. 3066–A (Feb. 7, 2014).

[6] *See, e.g., Freeport II,* DOE/FE Order No. 3357, at 5–6, 163, 165 (Ordering Para. C).

[7] App. at 2.

[8] *See Freeport II,* DOE/FE Order No. 3357, at 13–15 (discussing these LTAs and the ownership of each liquefaction train).

[9] FLEX states that Osaka Gas and Chubu Electric are two of the largest utilities and LNG end users in Japan.

[10] FLEX anticipates that, once these new subsidiaries are formed, both Osaka Gas Member and Chubu Member will be Delaware corporations with their principal place of business in Houston, Texas. We note that FLEX will be required to file relevant information with the Office of Oil and Gas Global Security and Supply within 30 days of the establishment of these entities.

[11] According to FLEX, IFM Investors is a global fund manager (with nearly $50 billion in funds under management) and one of the largest infrastructure investors in the world. It is owned by 30 major not-for-profit pension funds, with investments in the United States, Australia, and Europe. Therefore, FLEX states that the capital investment in FLIQ2 will be owned by some of the largest pension funds globally, including 5 of the top 10 U.S. public pension funds.

[12] FLEX asserts that the source of debt and equity funding for FLNG Liquefaction 3, LLC's (FLIQ3) capital costs for construction of Train 3 has not yet been finalized. FLEX states that it will submit a separate request to DOE/FE for approval of any proposed change in control related to FLIQ3, as appropriate.

respect to reporting and administration under all of FLEX's FTA and non-FTA export authorizations.

Public Interest Considerations

Citing DOE/FE precedent, FLEX states that the proposed indirect transfer of control is in the public interest under the NGA. Specifically, FLEX asserts that the proposed change will have no effect on any of the terms and conditions of its existing non-FTA authorizations (as well as its FTA authorizations not subject to this Notice), which DOE/FE granted under the public interest standard set forth in section 3(a) of the NGA. FLEX maintains that there are no facts presented in the Application that should cause DOE/FE to alter those prior public interest determinations. In particular, FLEX asserts that DOE/FE has previously held that foreign investment in LNG export facilities is not inconsistent with the public interest.[13]

FLEX further states that, because the transactions described above are required to finance construction of the Train 1 and Train 2 export facilities, approval of the proposed indirect changes in control is a prerequisite to FLEX beginning construction, and ultimately, to exporting LNG from the Freeport LNG Terminal. For these reasons, FLEX contends that the proposed changes in control will facilitate the realization of the significant benefits associated with its liquefaction project.

Environmental Impact

FLEX states that the proposed changes in control of FLIQ1 and FLIQ2 will not change the nature, extent, location, or operations of the proposed FLEX liquefaction project facilities. Therefore, FLEX maintains that a grant of its Application would not constitute a federal action significantly affecting the human environment within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* nor would an environmental impact statement or environmental assessment be required.

DOE/FE Evaluation

The portion of FLEX's Application subject to this Notice will be reviewed pursuant to section 3(a) of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00–002.00N (July 11, 2013) and DOE Redelegation Order No. 00–002.04F (July 11, 2013). In reviewing this Application, DOE will consider the Application, any comments filed in response to this Application, and as well as any other issues determined to be appropriate including conformity with the regulations at 10 CFR 590.405 and with NGA section 3(a), 15 U.S.C. 717b(a). Parties that may oppose this Application should comment in their responses on these issues.

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities, to the extent any are deemed to exist.

Public Comment Procedures

In response to this notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 14–005–CIC in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 14–005–CIC. **Please Note:** If submitting a filing via email, please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Division of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on August 7, 2014.

Marc P. Talbert,

Acting Director, Division of Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

[FR Doc. 2014–19124 Filed 8–12–14; 8:45 am]

BILLING CODE 6450–01–P

[13] *See* App. at 3.

DEPARTMENT OF ENERGY

Quadrennial Energy Review: Notice of Public Meeting

AGENCY: Office of Energy Policy and Systems Analysis, Secretariat, Quadrennial Energy Review Task Force, Department of Energy.

ACTION: Notice of public meeting.

SUMMARY: At the direction of the President, the U.S. Department of Energy (DOE or Department), as the Secretariat for the Quadrennial Energy Review Task Force (QER Task Force) will convene a public meeting to discuss and receive comments on issues related to the Quadrennial Energy Review.

DATES: The eleventh public meeting will be held on August 21, 2014, beginning at 9:00 a.m. Mountain Time. Written comments are welcome, especially following the public meeting, and should be submitted within 60 days of the meeting.

ADDRESSES: The eleventh meeting will be held at the Little America Hotel & Resort, Cheyenne Room, 800 W. Lincolnway, Cheyenne, WY 82009.

You may submit written comments to: *QERComments@hq.doe.gov* or by U.S. mail to the Office of Energy Policy and Systems Analysis, EPSA–60, QER Meeting Comments, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0121.

For the eleventh public meeting, please title your comment ''Quadrennial Energy Review: Comment on the Public Meeting Infrastructure Siting.

FOR FURTHER INFORMATION CONTACT: Ms. Adonica Renee Pickett, EPSA–90, U.S. Department of Energy, Office of Energy Policy and Systems Analysis, 1000 Independence Avenue SW., Washington, DC 20585–0121. *Telephone:* (202) 586–9168 *Email:Adonica.Pickett@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On January 9, 2014, President Obama issued a *Presidential Memorandum —Establishing a Quadrennial Energy Review.* To accomplish this review, the Presidential Memorandum establishes a Quadrennial Energy Review Task Force to be co-chaired by the Director of the Office of Science and Technology Policy, and the Director of the Domestic Policy Council. Under the Presidential Memorandum, the Secretary of Energy shall provide support to the Task Force, including support for coordination activities related to the preparation of the Quadrennial Energy Review Report, policy analysis and modeling, and stakeholder engagement. The DOE, as the Secretariat for the Quadrennial Energy Review Task Force, will hold a series of public meetings to discuss and receive comments on issues related to the Quadrennial Energy Review.

The initial focus for the Quadrennial Energy Review will be our Nation's infrastructure for transporting, transmitting, storing and delivering energy. Our current infrastructure is increasingly challenged by transformations in energy supply, markets, and patterns of end use; issues of aging and capacity; impacts of climate change; and cyber and physical threats. Any vulnerability in this infrastructure may be exacerbated by the increasing interdependencies of energy systems with water, telecommunications, transportation, and emergency response systems. The first Quadrennial Energy Review Report will serve as a roadmap to help address these challenges.

The Department of Energy has a broad role in energy policy development and the largest role in implementing the Federal Government's energy research and development portfolio. Many other executive departments and agencies also play key roles in developing and implementing policies governing energy resources and consumption, as well as associated environmental impacts. In addition, non-Federal actors are crucial contributors to energy policies. Because most energy and related infrastructure is owned by private entities, investment by and engagement of the private sector is necessary to develop and implement effective policies. State and local policies; the views of nongovernmental, environmental, faith-based, labor, and other social organizations; and contributions from the academic and non-profit sectors are also critical to the development and implementation of effective energy policies.

An interagency Quadrennial Energy Review Task Force, which includes members from all relevant executive departments and agencies (agencies), will develop an integrated review of energy policy that integrates all of these perspectives. It will build on the foundation provided in the Administration's *Blueprint for a Secure Energy Future* of March 30, 2011, and *Climate Action Plan* released on June 25, 2013. The Task Force will offer recommendations on what additional actions it believes would be appropriate. These may include recommendations on additional executive or legislative actions to address the energy challenges and opportunities facing the Nation.

August 21, 2014 Public Meeting: Infrastructure Siting.

On August 21, 2014, the DOE will hold a public meeting in Cheyenne, Wyoming. The August 21, 2014 public meeting will feature facilitated panel discussions, followed by an open microphone session. Persons desiring to speak during the open microphone session at the public meeting should come prepared to speak for no more than five minutes and will be accommodated on a first-come, first-served basis, according to the order in which they register to speak on a sign-in sheet available at the meeting location, on the morning of the meeting.

In advance of the meeting, DOE anticipates making publicly available a briefing memorandum providing useful background information regarding the topics under discussion at the meeting. DOE will post this memorandum on its Web site: *http://energy.gov.*

Submitting comments via email. Submitting comments by email to the QER email address will require you to provide your name and contact information in the transmittal email. Your contact information will be viewable to DOE staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). Your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to the QER email address (*QERcomments@hq.doe.gov*) information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted to the QER email address cannot be claimed as CBI. Comments received through the email address will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section, below.

If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email

address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination. Confidential information should be submitted to the Confidential QER email address: *QERConfidential@hq.doe.gov*.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest. It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Issued in Washington, DC, on August 7, 2014.

Michele Torrusio,

QER Secretariat, QER Interagency Task Force, U.S. Department of Energy.

[FR Doc. 2014–19138 Filed 8–12–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

President's Council of Advisors on Science and Technology

AGENCY: Department of Energy.

ACTION: Notice of open teleconference.

SUMMARY: This notice sets forth the schedule and summary agenda for an open conference call of the President's Council of Advisors on Science and Technology (PCAST) and describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The purpose of this conference call is to discuss PCAST's education information technology and nanotechnology reports.

DATES: The public conference call will be held on Thursday, August 28, 2014 from 11:45 a.m. to 12:30 p.m., Eastern Time (ET). To receive the call-in information, attendees should register for the conference call on the PCAST Web site, *http://www.whitehouse.gov/ostp/pcast,* no later than 12:00 p.m. ET on Tuesday, August 26, 2014.

FOR FURTHER INFORMATION CONTACT: Information regarding the call agenda, time, and how to register for the call is available on the PCAST Web site at: *http://whitehouse.gov/ostp/pcast*. Questions about the conference call should be directed to Dr. Knatokie Ford, PCAST AAAS S&T Policy Fellow, by email at: *kford@ostp.eop.gov,* or telephone at: (202) 456–4444.

SUPPLEMENTARY INFORMATION: The President's Council of Advisors on Science and Technology (PCAST) is an advisory group of the Nation's leading scientists and engineers, appointed by the President to augment the science and technology advice available to him from inside the White House and from cabinet departments and other Federal agencies. See the Executive Order at *http://www.whitehouse.gov/ostp/pcast*. PCAST is consulted about and provides analyses and recommendations concerning a wide range of issues where understandings from the domains of science, technology, and innovation may bear on the policy choices before the President. PCAST is co-chaired by Dr. John P. Holdren, Assistant to the President for Science and Technology, and Director, Office of Science and Technology Policy, Executive Office of the President, The White House; and Dr. Eric S. Lander, President, Broad Institute of the Massachusetts Institute of Technology and Harvard.

Type of Meeting: Open.

Proposed Schedule and Agenda: The President's Council of Advisors on Science and Technology (PCAST) is scheduled to hold a conference call in open session on August 28, 2014 from 11:45 a.m. to 12:30 p.m., Eastern Time (ET).

During the conference call, PCAST will discuss its education information technology and nanotechnology reports. Additional information and the agenda, including any changes that arise, will be posted at the PCAST Web site at: *http://whitehouse.gov/ostp/pcast*.

Public Comments: It is the policy of the PCAST to accept written public comments of any length and to accommodate oral public comments whenever possible. The PCAST expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

The public comment period for this meeting will take place on August 28, 2014 at a time specified in the meeting agenda posted on the PCAST Web site at *http://whitehouse.gov/ostp/pcast*. This public comment period is designed only for substantive commentary on PCAST's work, not for business marketing purposes.

Oral Comments: To be considered for the public speaker list at the meeting, interested parties should register to speak at *http://www.whitehouse.gov/ostp/pcast,* no later than 12:00 p.m. ET on Thursday, August 21, 2014. Phone or email reservations to be considered for the public speaker list will not be accepted. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of 10 minutes. If more speakers register than there is space available on the agenda, PCAST will randomly select speakers from among those who applied. Those not selected to present oral comments may always file written comments with the committee as described below.

Written Comments: Although written comments are accepted until the date of the meeting, written comments should be submitted to PCAST no later than 12:00 p.m. ET on Tuesday, August 26, 2014, so that the comments may be made available to the PCAST members

prior to the meeting for their consideration. Information regarding how to submit comments and documents to PCAST is available at *http://whitehouse.gov/ostp/pcast* in the section entitled ''Connect with PCAST.''

Please note that because PCAST operates under the provisions of FACA, all public comments and/or presentations will be treated as public documents and will be made available for public inspection, including being posted on the PCAST Web site.

Meeting Accommodations: Individuals requiring special accommodation to access this public meeting should contact Dr. Ford at least ten business days prior to the meeting so that appropriate arrangements can be made.

Issued in Washington, DC, on August 7, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–19134 Filed 8–12–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Electricity Advisory Committee

AGENCY: Department of Energy, Office of Electricity Delivery and Energy Reliability.

ACTION: Notice of Renewal.

SUMMARY: Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, and in accordance with Title 41 of the Code of Federal Regulations, section 102–3.65(a), and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Electricity Advisory Committee's (EAC) charter has been renewed for a two-year period beginning on August 8, 2014.

The Committee will provide advice and recommendations to the Assistant Secretary for Electricity Delivery and Energy Reliability on programs to modernize the Nation's electric power system.

Additionally, the renewal of the EAC has been determined to be essential to conduct Department of Energy business and to be in the public interest in connection with the performance of duties imposed upon the Department of Energy by law and agreement. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, adhering to the rules and regulations in implementation of that Act.

FOR FURTHER INFORMATION CONTACT: Matt Rosenbaum, Designated Federal Officer at (202) 586–1060.

Issued in Washington, DC, on August 8, 2014.

Amy Bodette,

Committee Management Officer.

[FR Doc. 2014–19133 Filed 8–12–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Boulder Canyon Project

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Base Charge and Rates.

SUMMARY: In this notice, the Deputy Secretary of Energy (Deputy Secretary) approves the Fiscal Year (FY) 2015 Base Charge and Rates for Boulder Canyon Project (BCP) electric service provided by the Western Area Power Administration (Western). The Base Charge will provide sufficient revenue to pay all annual costs, including interest expense, and repay investments within the allowable period.

DATES: The revised Base Charge and Rates will be effective the first day of the first full billing period beginning on or after October 1, 2014, and will stay in effect through September 30, 2015, or until superseded.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Murray, Rates Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 605–2442, email *jmurray@wapa.gov.*

SUPPLEMENTARY INFORMATION: Hoover Dam, authorized by the Boulder Canyon Project Act (45 Stat. 1057, December 21, 1928), sits on the Colorado River along the Arizona and Nevada border. The Hoover Dam powerplant has 19 generating units (two for plant use) and an installed capacity of 2,078,800 kilowatts (kW) (4,800 kW for plant use). High-voltage transmission lines and substations connect BCP power to consumers in southern Nevada, Arizona, and southern California. BCP electric service rates are adjusted annually using an existing rate formula established on April 19, 1996. The rate formula requires the BCP contractors to pay a Base Charge (expressed in dollars), rather than a rate, for their power. The Base Charge is calculated to generate sufficient revenue to cover all annual costs and to repay investment obligations within allowable time periods. The Base Charge is allocated to each BCP Contractor in proportion to its allocation of Hoover power. A BCP composite power rate, expressed in mills per kilowatt-hour (mills/kWh), can be inferred by dividing the Base Charge by energy sales in the year; however, the rate is not used to determine customers' bills.

Rate Schedule BCP–F8, Rate Order No. WAPA–150, effective October 1, 2010, through September 30, 2015, allows for an annual recalculation of the Base Charge and Rates.[1] This notice sets forth the recalculation for FY 2015. Under Rate Schedule BCP–F8, the existing composite rate, effective on October 1, 2013, is 20.18 mills/kWh. The current Base Charge is $76,108,019, the energy rate is 10.09 mills/kWh, and the capacity rate is $1.87 per kilowatt-month (kW-month).

The recalculated Base Charge for BCP electric service, effective October 1, 2014, is $61,008,518, an approximate 20 percent decrease from the FY 2014 Base Charge. The major contributing factor to the decrease is from the FY 2012 costs being lower than expected allowing additional funds to be carried over into FY 2013. FY 2013 costs were also lower than anticipated and other revenues from the Hoover Dam Visitor Center and Ancillary Services, which are used to offset costs to be recovered from power customers, were higher than expected. In addition, the BCP Contractors paid off the Visitor Facilities and Air Slots capitalized investment debt in FY 2014, which allowed additional funds from interest savings to be carried over into FY 2015, thus making it possible for the FY 2015 Base Charge to be reduced significantly from the current level. The FY 2015 composite rate of 16.28 mills/kWh is a decrease of approximately 19 percent compared to the FY 2014 BCP composite rate of 20.18 mills/kWh. The FY 2015 energy rate of 8.14 mills/kWh is a decrease of approximately 19 percent compared to the existing energy rate of 10.09 mills/kWh. The FY 2015 capacity rate of $1.61/kW-month is a decrease of approximately 14 percent compared to the existing capacity rate of $1.87/kW-month. FY 2015 Energy and Capacity sales have decreased compared with FY 2014, due to a forecast of continued poor hydrological conditions resulting in lower lake elevation. Although the energy and capacity sales for FY 2015 are decreasing, the significant decrease in the revenue

[1] FERC confirmed and approved Rate Schedule BCP–F8 on a final basis on December 9, 2010, in Docket No. EF10–7–000, *See United States Department of Energy, Western Area Power Administration, Boulder Canyon Project,* 133 FERC ¶ 62,229 (December 9, 2010).

requirement for FY 2015 results in a decrease to the composite and energy and capacity rates. The proposed rates were calculated using Western's FY 2014 Final Master Schedule, which provides the FY 2015 projections for energy and capacity sales.

The following summarizes the steps taken by Western to ensure involvement of all interested parties in determining the Base Charge and Rates:

1. A **Federal Register** notice was published on February 5, 2014 (79 FR 6896), announcing the proposed rate adjustment process, initiating a public consultation and comment period, announcing public information and public comment forums, and presenting procedures for public participation.

2. Discussion of the proposal was initiated at an informal BCP Contractor meeting held March 5, 2014, in Phoenix, Arizona. At this informal meeting, representatives from Western and the Bureau of Reclamation (Reclamation) explained the basis for the estimates used to calculate the Base Charge and Rates and held a question and answer session.

3. At the public information forum held on March 26, 2014, in Phoenix, Arizona, Western and Reclamation representatives explained the proposed Base Charge and Rates for FY 2015 in greater detail and held a question and answer session.

4. A public comment forum held on April 16, 2014, in Phoenix, Arizona, provided the public with an opportunity to comment for the record. Two individuals commented at this forum.

5. Western received one comment letter during the 90-day consultation and comment period. The consultation and comment period ended May 6, 2014. The written comments were received from the following interested party representing various customers of the BCP Contractors:

- Irrigation & Electrical Districts Association of Arizona, Phoenix, Arizona.

Comments and responses, paraphrased for brevity when not affecting the meaning of the statements, are presented below.

Comment: A commenter expressed an on-going concern regarding requests for clarity and a better understanding of how Western's Corporate Service Office (CSO) costs are allocated to Western's projects, including the BCP, and requests further discussions on the subject. The commenter also expressed disquiet for the escalation in system-wide expenses, how it is calculated and allocated to BCP. The commenter requests Western provide an explanation of how these costs are allocated to BCP.

Response: The process for allocating CSO costs (overhead) to Western's projects is basically accomplished through two primary methods. The first method is through General Western Allocation (GWA) overhead costs which are distributed to the regions through a percentage calculation by individual regional full time equivalent (FTE) count divided by total regional FTE count. Then Desert Southwest Customer Service Region (DSW) distributes that portion to its individual projects through a percentage calculation determined by number of direct labor hours charged to each individual project divided by total direct labor hours. In addition to the method GWA is allocated, Western's other overhead costs are allocated to projects through various burden rates (administrative, construction, and operation and maintenance). The burden rates are allocated to each project through direct labor charges which are calculated based on which customers benefit from the work being performed. Western's CSO Chief Finance Office gave a presentation on May 21, 2014, at the BCP Engineering and Operation Committee quarterly meeting demonstrating the process mentioned above and how CSO's costs are allocated to Western's regions. Western's goal was to give the customers another opportunity to clarify any questions and give a better understanding of this cost allocation process.

Regarding the escalation of system-wide expenses, primarily two budget items contribute to the increases, system operations and load dispatching and power marketing costs. In 2011, a re-evaluation of the workload in Western's dispatch centers was undertaken to more accurately reflect the work being performed. The study results changed the budget allocation method for system operation and load dispatching to Western's power systems. During the period of September 10–20, 2011, Western presented to its customers the revised cost allocation methodology that impacted system-wide costs for all Western projects, including BCP, beginning in FY 2014. The revised allocations, based on nameplate generator capacity or transmission line miles, did not cause an increase in total costs, but the re-allocation resulted in some projects, including BCP being allocated a larger percentage of those costs than they had in the past. From a total regional perspective, DSW's share of the system operation and load dispatch costs remained relatively stable. The power marketing costs are increasing due to the post-2017 remarketing process which Western has addressed in its annual rate process.

BCP Electric Service Rates

BCP Base Charge and the resulting calculated Rates for electric service are designed to recover an annual revenue requirement that includes operation and maintenance expenses, payments to states, visitor services, the uprating program, replacements, investment repayment, and interest expense. Western's power repayment study (PRS) allocates the projected annual revenue requirement for electric service equally between capacity and energy.

Availability of Information

Information about this Base Charge and Rate adjustment, including the PRS, comments, letters, memorandums, and other supporting material developed or maintained by Western and used to develop the FY 2015 BCP Base Charge and Rates is available for public review at the Desert Southwest Customer Service Regional Office, Western Area Power Administration, 615 South 43rd Avenue, Phoenix, AZ 85009. The information is also available on Western's Web site at *www.wapa.gov/dsw/pwrmkt/BCP/RateAdjust.htm.*

Ratemaking Procedure Requirements

BCP electric service rates are developed under the Department of Energy Organization Act (42 U.S.C. 7101–7352), through which the power marketing functions of the Secretary of the Interior and Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts that specifically apply to the project involved, were transferred to and vested in the Secretary of Energy, acting by and through Western.

By Delegation Order No. 00–037.00A, effective October 25, 2013, the Secretary of Energy delegated: (1) The authority to develop long-term power and transmission rates on a non-exclusive basis to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). Existing Department of Energy procedures for public participation in electric service rate adjustments are located at 10 CFR part 903, effective September 18, 1985 (50 FR 37835).

Department of Energy procedures were followed by Western in developing the rate formula approved by FERC on December 9, 2010, at 133 FERC ¶ 62,229.[2]

The Boulder Canyon Project Implementation Agreement (BCPIA) requires that Western determine the annual base charge and rates for the next fiscal year before October 1 of each rate year. The rates for the first rate year, and each fifth rate year thereafter, become effective provisionally upon approval by the Deputy Secretary and subject to final approval by FERC. For all other rate years, the rates become effective on a final basis upon approval by the Deputy Secretary. Because FY 2015 is an interim year, these rates become effective on a final basis upon approval by the Deputy Secretary.

Western will continue to provide annual rates to the BCP Contractors by October 1 of each year using the same rate-setting formula. In accordance with 10 CFR part 904, effective June 1, 1987 (57 FR 43154), and the BCPIA, the rates are reviewed annually and adjusted upward or downward to assure sufficient revenues are collected to achieve payment of all costs and financial obligations associated with the project. Each fiscal year, Western prepares a PRS for the BCP to update actual revenues and expenses, including interest, estimates of future revenues, operating expenses, and capitalized costs.

The BCP rate-setting formula includes a base charge, an energy rate, and a capacity rate. The rate-setting formula was used to determine the BCP FY 2015 Base Charge and Rates.

Western proposed a FY 2015 Base Charge of $61,008,518, an energy rate of 8.14 mills/kWh, and a capacity rate of 1.61/kW-month.

Consistent with procedures set forth in 10 CFR part 903 and 904 and 18 CFR part 300, Western held a consultation and comment period. The notice of the proposed FY 2015 Base Charge and Rates for electric service was published in the **Federal Register** on February 5, 2014 (79 FR 6896).

Under Delegation Order Nos. 00–037.00A and 00–001.00C, and in compliance with 10 CFR part 903, I hereby approve the FY 2015 Base Charge and Rates for BCP Electric Service on a final basis under Rate Schedule BCP–F8 through September 30, 2015.

Issued in Washington, DC, on August 7, 2014.

Daniel B. Poneman,

Deputy Secretary of Energy.

[FR Doc. 2014–19128 Filed 8–12–14; 8:45 am]

BILLING CODE 6450–01–P

[2] The existing rate-setting formula was established in Rate Schedule BCP–F5 (Rate Order No. WAPA–70) on April 19, 1996, in Docket No. EF96–5091–000, at 75 FERC ¶ 62,050, for the period beginning November 1, 1995, and ending September 30, 2000. Rate Schedule BCP–F6 (Rate Order No. WAPA–94, extending the existing rate-setting formula beginning on October 1, 2000, and ending September 30, 2005), was approved on July 31, 2001, in Docket No. EF00–5092–000, at 96 FERC ¶ 61,171. Rate Schedule BCP–F7 (Rate Order No. WAPA–120, extending the existing rate-setting formula for another five-year period beginning on October 1, 2005, and ending September 30, 2010), was approved on June 22, 2006, in Docket No. EF05–5091–000 at 115 FERC ¶ 61,362. Rate Schedule BCP–F8 (Rate Order No. WAPA–150, extending the existing rate-setting formula for another five-year period beginning on October 1, 2010), was approved on December 9, 2010, in Docket No. EF10–7–000 at 133 FERC ¶ 62,229.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0009; FRL–9914–42]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before September 12, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the EPA Registration Number or File Symbol of interest as shown in the body of this document, 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: Robert McNally, Biopesticides and Pollution Prevention Division (BPPD) (7511P), main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.,* Lois Rossi, Registration Division (RD) (7505P), main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

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. 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. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

1. *EPA File Symbol:* 524–ARO. *Docket ID Number:* EPA–HQ–OPP–2014–0456. *Applicant:* Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63167. *Active Ingredient: Bacillus thuringiensis* Cry1A.105 and Cry2Ab2 proteins and the genetic material (Vector PV–GMIR13196) necessary for their production in MON 87751 soybean. *Product Type:* Plant-incorporated protectant. *Proposed Use:* Control of lepidopteran soybean pests. (BPPD)

2. *EPA File Symbols:* 100–RUAT, 100–RUAE, 100–RUAG, 100–RUAA, 100–RUAL. *Docket ID Number:* EPA–HQ–OPP–2014–0355. *Applicant:* Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. *Active Ingredient:* Bicyclopyrone. *Product Type:* herbicide. *Proposed Uses:* Technical and End-Use products intended for use in or on field corn, seed corn, silage corn, sweet corn and yellow popcorn. (RD)

3. *EPA File Symbol:* 524–ARI. *Docket ID Number:* EPA–HQ–OPP–2014–0293. *Applicant:* Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63167. *Active Ingredients:* Double-stranded ribonucleic acid (dsRNA) transcript comprising a DvSnf7 inverted repeat sequence derived from western corn rootworm (*Diabrotica virgifera virgifera*) and *Bacillus thuringiensis* Cry3Bb1 protein and the genetic materials (vector PV–ZMIR10871) necessary for their production in MON 87411 corn (OECD Unique Identifier: MON–87411–9). *Proposed Uses:* Plant-incorporated protectant. (BPPD)

4. *EPA File Symbol:* 89850–R. *Docket ID Number:* EPA–HQ–OPP–2014–0376. *Applicant:* J&T Associates, LLC, 4061 North 156th Dr., Goodyear, AZ 85395 on behalf of SemioBio Technologies, Inc. 320–887 Great Northern Way, Vancouver, BC V5T 4T5. Canada. *Active Ingredient:* Furfuryl Propionate. *Product Type:* Bed Bug Repellent. *Proposed Uses:* Application by general public, first responders and pest control operators when applied to uniforms, clothing, luggage and other surfaces against bed bugs. (BPPD)

5. *EPA File Symbols:* 71512–ER, 71512–EE, and 71512–EG. *Docket ID Number:* EPA–HQ–OPP–2013–0138. *Applicant:* ISK Biosciences, 7470 Auburn Rd., Suite A, Concord, OH 44077. *Active Ingredient:* Isofetamid. *Product Type:* Fungicide. *Proposed Use:* Turf. Turf was not included on the previous NOR for isofetamid which published on 4/9/13. (RD)

6. *EPA File Symbols:* 83623–R, 83623–G and 83623–E. *Docket ID Number:* EPA–HQ–OPP–2014–0375. *Applicant:* Interregional Research Project Number 4, 500 College Rd. East, Suite 201W, Princeton, New Jersey 08540 on behalf of BetaTec Hop Products, Inc., 5185 MacArthur Blvd. NW., Suite 300, Washington, DC 20016. *Active Ingredient:* Potassium Salts of Hop Beta Acids (Hop beta acids resin). *Product Type:* Miticide. *Proposed Uses:* Manufacturing-Use Products to be formulated into end-use products for the management of Varroa mite in bee hives. (BPPD)

7. *EPA File Symbol:* 88958–R. *Docket ID Number:* EPA–HQ–OPP–2014–0358. *Applicant:* Interregional Research Project Number 4, IR–4, Rutgers University, 500 College Rd. East, Suite 201W, Princeton, NJ 08540, on behalf of CAI America LLC, 309 Fairwinds Dr., Cary, NC 27518. *Active ingredient:* Propylene Glycol Alginate. *Product Type:* Nematocide, Insecticide, and Fungicide. *Proposed Uses:* Manufacturing-use product to be formulated into end-use products for Preharvest applications to crops and turf. (BPPD)

8. *EPA File Symbol:* 88958–E. *Docket ID Number:* EPA–HQ–OPP–2014–0358. Applicant: Interregional Research Project Number 4, IR–4, Rutgers University, 500 College Rd. East, Suite 201W, Princeton, NJ 08540, on behalf of CAI America LLC, 309 Fairwinds Dr., Cary, NC 27518. *Active ingredient:* Propylene Glycol Alginate. *Product Type:* Nematocide, Insecticide, and Fungicide. *Proposed Uses:* End-use product for preharvest, in-furrow, soil drench and foliar applications to crops and turf. (BPPD)

List of Subjects

Environmental protection, Pesticides and pest.

Dated: August 1, 2014.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2014–19060 Filed 8–12–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–1017; FRL–9914–00]

Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1 of Unit II., pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a June 4, 2014 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 2 of Unit II. to voluntarily cancel these product registrations. In the June 4, 2014 **Federal Register** notice, EPA indicated that it would issue an order implementing the cancellations, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency did not receive any comments on the June 4, 2014 **Federal Register** notice. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is

permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective August 13, 2014.

FOR FURTHER INFORMATION CONTACT: John W. Pates, Jr., Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8195; email address: *pates.john@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. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2009–1017, 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.*

II. What action is the agency taking?

This notice announces the cancellation, as requested by registrants, of products registered under FIFRA section 3. These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

EPA Registration No.	Product name	Chemical name
000100–00867	Barricade F Herbicide	Prodiamine.
000100–00879	Barricade G Herbicide	Prodiamine.
000432–00799	AquaPy	Piperonyl butoxide and pyrethrins (No inert use).
000464–00664	Bioban CS–40L Preservative	4,4-Dimethyloxazolidine.
001448–00371	Busan 1020L	Metam-sodium.
004713–00004	Kenya Pyrethrum Extract Crude Concentrate A	Pyrethrins (No inert use).
007969–00057	Ronilan Manufacturer's Concentrate	Vinclozolin.
007969–00085	Ronilan EG Fungicide	Vinclozolin.
007969–00224	Curalan EG Fungicide	Vinclozolin.
011603–00035	Bromotril Technical	Bromoxynil octanoate.
011603–00036	Agan Bromoxynil Technical	Bromoxynil octanoate.
011603–00048	Nicosulfuron Technical	Nicosulfuron.
019713–00299	Drexel Sanitizit	Phosphoric acid and dodecylbenzenesulfonic acid.
040849–00056	Enforcer Flea Fogger XX	MGK 264, pyrethrins (No inert use), pyriproxyfen, and permethrin.
046386–00002	Prometrex Technical	Prometryn.
053883–00241	CSI Wipe & Spray Insecticide	Stabilene, pyrethrins (No inert use), and piperonyl butoxide.
072159–00002	ImidaPro 2SC Systemic Insecticide	Imidacloprid.
073801–00002	Permethrin Technical	Permethrin.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS

EPA company No.	Company name and address
100	Syngenta Crop Protection, LLC, 410 Swing Rd., P.O. Box 18300, Greensboro, NC 27419–8300
432	Bayer Environmental Science, A Division of Bayer, CropScience LP, 2 T.W. Alexander Dr., P.O. Box 12014, Research Triangle Park, NC 27709
464	The Dow Chemical Co., Agent: The Dow Chemical Company, 100 Larkin Center, 1650 Joseph Dr., Midland, MI 48674
1448	Buckman Laboratories, Inc., 1256 North McLean Blvd., Memphis, TN 38108
4713	Pyrethrum Board of Kenya, Agent: Regwest Company, LLC, 8203 West 20th St., Suite A, Greeley, CO 80634–4696
7969	BASF Corporation, Agricultural Products, 26 Davis Dr., P.O. Box 13528, Research Triangle Park, NC 27709–3528
11603	Agan Chemical Manufacturing, LTD, Agent: Makhteshim-Agan of North America, Inc., 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604
19713	Drexel Chemical Company, P.O. Box 13327, Memphis, TN 38113–0327
40849	ZEP Commercial Sales & Service, A Unit of Zep, Inc., Agent: Compliance Services, 1259 Seaboard Industrial Blvd., NW, Atlanta, GA 30318
46386	Verolit Chemical, Manufacturers, LTD, Agent: Makhteshim-Agan of North America, Inc., 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604
53883	Control Solutions, Inc., 5903 Genoa-Red Bluff Rd., Pasadena, TX 77507–1041
72159	Agrisel USA, Inc., Agent: Biologic, Inc., 115 Obtuse Hill Rd., Brookfield, CT 06804

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS—Continued

EPA company No.	Company name and address
73801	Tagros Chemicals India, LTD, Agent: Biologic, Inc., 115 Obtuse Hill Rd., Brookfield, CT 06804

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the June 4, 2014 **Federal Register** notice announcing the Agency's receipt of the requests for voluntary cancellations of products listed in Table 1 of Unit II.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested cancellations of the registrations identified in Table 1 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II. are canceled. The effective date of the cancellations that are the subject of this notice is August 13, 2014. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II. in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI. will be a violation of FIFRA.

V. 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**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of June 4, 2014 (79 FR 32288) (FRL–9910–97). The comment period closed on July 7, 2014.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The existing stocks provisions for the products subject to this order are as follows.

A. For Products 000464–00664, 011603–00048, and 053883–00241

The registrants have indicated to the Agency via written response that there are no existing stocks of technical or end use products. Therefore, no existing stocks date is necessary. Registrants are prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than the registrants may sell, distribute, or use existing stocks of products listed in Table 1 of Unit II. until existing stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

B. For Products 007969–00057, 007969–00085, and 007969–00224

The registrant has indicated to the Agency via letter that all registrations for the active ingredient vinclozolin will be phased out. Because the Agency has identified no significant potential risk concerns associated with these pesticide products, EPA is allowing registrants to sell and distribute existing stocks of these products until December 31, 2016. Thereafter, registrants, and persons other than registrants, are prohibited from selling or distributing existing stocks of products containing vinclozolin identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Existing stocks of products containing vinclozolin already in the hands of users can be used legally until such stocks are exhausted, provided that the use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled products.

C. For All Other Products Identified in Table 1 of Unit II.

Registrants may continue to sell and distribute existing stocks of products listed in Table 1 of Unit II. until August 13, 2015, which is 1 year after the publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants are prohibited from selling or distributing the pesticides listed in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants may sell, distribute, or use existing stocks of products listed in Table 1 of Unit II. until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: July 29, 2014.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–18961 Filed 8–12–14; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Existing Collection; Emergency Extension

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of Information Collection — Emergency Request—Extension Without Change of a Currently Approved Collection: Employer Information Report (EEO–1).

SUMMARY: In accordance with the Paperwork Reduction Act, the Equal Employment Opportunity Commission (EEOC or Commission) announces that it intends to submit to the Office of Management and Budget (OMB) a request for an emergency extension of the Employer Information Report (EEO–1) to be effective after the current August 31, 2014 expiration date.

FOR FURTHER INFORMATION CONTACT: Ronald Edwards, Director, Program Research and Surveys Division, Equal Employment Opportunity Commission, 131 M Street NE., Room 4SW30F, Washington, DC 20507; (202) 663–4958 (voice) or (202) 663–7063 (TTY). Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663–4191 (voice) or (202) 663–4494 (TTY).

SUPPLEMENTARY INFORMATION: The EEOC has collected information annually from private employers on the Form 100 since 1966.

Overview of Information Collection

Collection Title: Employer Information Report (EEO–1).

OMB Number: 3046–0007.

Frequency of Report: Annual.

Type of Respondent: Private employers with 100 or more employees and certain federal government contractors and first-tier subcontractors with 50 or more employees.

Description of Affected Public: Private employers with 100 or more employees and certain federal government contractors and first-tier subcontractors with 50 or more employees.

Reporting Hours: 987,394.

Respondent Cost: $11.4 million.

Federal Cost: $2.1 million.

Number of Forms: 1.

Abstract: Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-8(c), requires employers to make and keep records relevant to a determination of whether unlawful employment practices have been or are being committed, to preserve such records, and to produce reports as the Commission prescribes by regulation or order. Accordingly, the EEOC issued regulations prescribing the EEO–1 reporting requirement. Employers in the private sector with 100 or more employees and some federal contractors with 50 or more employees have been required to submit EEO–1 reports annually since 1966. The individual reports are confidential. EEO–1 data is used by EEOC to investigate charges of employment discrimination against employers in private industry and to provide information about the employment status of minorities and women. The data is shared with the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, and several other federal agencies. Pursuant to § 709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO–1 data is also shared with state and local Fair Employment Practices Agencies (FEPAs).

Burden Statement: The estimated number of respondents included in the annual EEO–1 survey is 70,000 private employers. The annual number of responses is approximately 290,410. The form is estimated to impose 987,394 burden hours annually or 3.4 hours per response. In order to help reduce survey burden, respondents are encouraged to report data electronically whenever possible.

Dated: August 7, 2014.

For the Commission.

Jacqueline A. Berrien,

Chair.

[FR Doc. 2014–19135 Filed 8–12–14; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Open Meeting and Agenda of Commission Meeting Deletion of Consent Agenda Items From August 8, 2014 Open Meeting

August 7, 2014.

The following items have been deleted from the list of consent agenda items scheduled for consideration at the Friday, August 8, 2014, Open Meeting and previously listed in the Commission's Notice of August 1, 2014. Items 1, 3, 4 and 5 from the consent agenda have been adopted by the Commission.

The summaries listed in this notice are intended for the use of the public attending open Commission meetings. Information not summarized may also be considered at such meetings. Consequently these summaries should not be interpreted to limit the Commission's authority to consider any relevant information.

Item No.	Bureau	Subject
1	MEDIA	TITLE: New Visalia Broadcasting, Inc., Former licensee of Station DKSLK(FM), Visalia, California SUMMARY: The Commission will consider a Memorandum Opinion and Order concerning an Application for Review filed by New Visalia Broadcasting seeking review of a Media Bureau decision.
2	MEDIA	TITLE: Nelson Multimedia, Inc. for a Major Change to the Licensed Facilities of WSPY(AM), Geneva, Illinois SUMMARY: The Commission will consider a Memorandum Opinion and Order concerning an Application for Review filed by Nelson Multimedia seeking review of a decision by the Media Bureau dismissing its community of license change application.
3	MEDIA	TITLE: Sunburst Media-Louisiana, LLC, Application for a Construction Permit for a Minor Change to a Licensed Facility, Station KXMG(FM), Jean Lafitte, Louisiana SUMMARY: The Commission will consider a Memorandum Opinion and Order concerning an Application for Review filed by William Clay seeking review of a Media Bureau decision.
4	MEDIA	TITLE: WDKA Acquisition Corporation, Licensee of Station WDKA(TV), Paducah, Kentucky SUMMARY: The Commission will consider a Memorandum Opinion and Order concerning an Application for Review filed by WDKA Acquisition Corporation seeking review of a Forfeiture Order issued by the Media Bureau's Video Division.
5	MEDIA	TITLE: Colonial Radio Group, Inc., Applications for Minor Modification of Construction Permits, Application for License to Cover FM Translator Station W230BO, Olean, New York SUMMARY: The Commission will consider a Memorandum Opinion and Order concerning an Application for Review filed by Backyard Broadcasting Olean Licensee, LLC seeking review of a Media Bureau decision.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2014–19136 Filed 8–12–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Information Collection Revision; Comment Request (3064–0189)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a continuing information collection, as

required by the Paperwork Reduction Act of 1995. Under the Paperwork Reduction Act, Federal Agencies are required to publish notice in the **Federal Register** concerning proposed information collection revisions and allow 60 days for public comment in response to the notice.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC is soliciting comment concerning its information collection titled, ''Annual Stress Test Reporting Template and Documentation for Covered Banks with Total Consolidated Assets of $10 Billion to $50 Billion under Dodd-Frank'' (OMB Control No. 3064–0189).

DATES: Comments must be received by October 14, 2014.

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

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal/*. Follow the instructions for submitting comments on the FDIC Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: Comments@FDIC.gov*. Include ''Annual Stress Test Reporting'' on the subject line of the message.
- *Mail:* Gary A. Kuiper, Counsel, Executive Secretary Section, NYA–5046, Attention: Comments, FDIC, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/* including any personal information provided.

Additionally, you may send a copy of your comments: By mail to the U.S. OMB, 725 17th Street NW., #10235, Washington, DC 20503 or by facsimile to 202–395–6974, Attention: Federal Banking Agency Desk Officer.

FOR FURTHER INFORMATION CONTACT: You can request additional information from Gary Kuiper, 202–898–3877, Legal Division, FDIC, 550 17th Street NW., NYA–5046, Washington, DC 20429. In addition, copies of the templates referenced in this notice can be found on the FDIC's Web site (*http://www.fdic.gov/regulations/laws/federal/*).

SUPPLEMENTARY INFORMATION: The FDIC is requesting comment on the following revision of an information collection:

Annual Stress Test Reporting Template and Documentation for Covered Banks With Total Consolidated Assets of $10 Billion to $50 Billion Under Dodd-Frank

Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act [1] (Dodd-Frank Act) requires certain financial companies, including state nonmember banks and state savings associations, to conduct annual stress tests [2] and requires the primary financial regulatory agency [3] of those financial companies to issue regulations implementing the stress test requirements.[4] A state nonmember bank or state savings association is a ''covered bank'' and therefore subject to the stress test requirements if its total consolidated assets exceed $10 billion. Under section 165(i)(2), a covered bank is required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.[5] On October 15, 2012, the FDIC published in the **Federal Register** a final rule implementing the section 165(i)(2) annual stress test requirement.[6] The final rule requires covered banks to meet specific reporting requirements under section 165(i)(2). In 2013, the FDIC first implemented the reporting templates for covered banks with total consolidated assets of $10 billion to $50 billion and provided instructions for completing the reports.[7] This notice describes revisions by the FDIC to those reporting templates, the information required, and related instructions. This information collection will be given confidential treatment to the extent allowed by law (5 U.S.C. 552(b)(4)).

Consistent with past practice, the FDIC intends to use the data collected through these revised templates to assess the reasonableness of the stress test results of covered banks and to provide forward-looking information to the FDIC regarding a covered bank's capital adequacy. The FDIC also may use the results of the stress tests to determine whether additional analytical techniques and exercises could be appropriate to identify, measure, and monitor risks at the covered bank. The stress test results are expected to support ongoing improvement in a covered bank's stress testing practices with respect to its internal assessments of capital adequacy and overall capital planning.

The FDIC recognizes that many covered banks with total consolidated assets of $10 billion to $50 billion are part of a holding company that is also required to submit relevant Dodd-Frank Annual Stress Test (DFAST) reports to the Board (FR Y–16, OMB No. 7100–0356). The FDIC, Office of Comptroller of the Currency, and Board have coordinated the preparation of stress testing templates in order to make the templates as similar as possible and thereby minimize the burden on affected institutions. These agencies have coordinated in a similar manner regarding these proposed modifications to the stress testing templates. Therefore, the revisions by the FDIC to its reporting requirements will remain consistent with the modifications that the Board proposes to make to the FR Y–16.

Description of Information Collection

The FDIC DFAST 10–50 reporting form collects data through two primary schedules: (1) The Results Schedule (which includes the quantitative results of the stress tests under the baseline, adverse, and severely adverse scenarios for each quarter of the planning horizon) and (2) the Scenario Variables Schedule. In addition, respondents are required to submit a summary of the qualitative information supporting their quantitative projections. The qualitative supporting information must include:

- A description of the types of risks included in the stress test;
- A summary description of the methodologies used in the stress test;
- An explanation of the most significant causes for the changes in regulatory capital ratios, and
- The use of the stress test results.

Results Schedule

For each of the three supervisory scenarios (baseline, adverse, and severely adverse), data are reported on two supporting schedules: (1) The Income Statement Schedule and (2) the Balance Sheet Schedule. Therefore, two supporting schedules for each scenario (baseline, adverse, and severely adverse) are completed. In addition, the Results Schedule includes a Summary Schedule, which summarizes key results from the Income Statement and Balance Sheet Schedules.

[1] Public Law 111–203, 124 Stat. 1376 (July 21, 2010).

[2] 12 U.S.C. 5365(i)(2)(A).

[3] 12 U.S.C. 5301(12).

[4] 12 U.S.C. 5365(i)(2)(C).

[5] 12 U.S.C. 5365(i)(2)(B).

[6] 77 FR 62417 (October 15, 2012).

[7] *See* 78 FR 16263 (March 14, 2013) and 78 FR 63470 (October 24, 2013).

Income statement data are collected on a projected quarterly basis showing projections of revenues and losses. For example, respondents project net charge-offs by loan type (stratified by twelve specific loan types), gains and losses on securities, pre-provision net revenue, and other key components of net income (i.e., provision for loan and lease losses, taxes, etc.).

Balance sheet data are collected on a quarterly basis for projections of certain assets, liabilities, and capital. Capital data are also collected on a projected quarterly basis and include components of regulatory capital, including the projections of risk weighted assets and capital actions such as common dividends and share repurchases.

Scenario Variables Schedule

To conduct the stress tests, an institution may choose to project additional economic and financial variables beyond the mandatory supervisory scenarios provided to estimate losses or revenues for some or all of its portfolios. In such cases, the institution would be required to complete the Scenario Variables Schedule for each scenario where the institution chooses to use additional variables. The Scenario Variables Schedule collects information on the additional scenario variables used over the planning horizon for each supervisory scenario.

The proposed revisions to the FDIC DFAST reporting templates for covered banks with assets of $10 billion to $50 billion or more are described below.

Proposed Revisions to Reporting Templates for Banks With $10 Billion to $50 Billion in Assets

On July 9, 2013, the FDIC approved an interim final rule that will revise and replace the FDIC's risk-based and leverage capital requirements to be consistent with agreements reached by the Basel Committee on Banking Supervision in ''Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems'' (Basel III).[8] The final rule was published in the **Federal Register** on May 1, 2014.[9] The revisions include implementation of a new definition of regulatory capital, a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for banking organizations subject to the Advanced Approaches capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator measure. In addition, the rule will amend the methodologies for determining risk weighted assets. All banking organizations that are not subject to the Advanced Approaches Rule must begin to comply with the revised capital framework on January 1, 2015.

Due to the timing of the Dodd-Frank Act stress test and the capital rulemaking, the FDIC considered several options for the timing and scope of this proposal to collect information related to the capital rulemaking. After careful consideration of the various options, the FDIC determined that the following revisions would enable the FDIC to collect these data while minimizing the burden to the industry.

The FDIC proposes to revise the FDIC DFAST 10–50 Summary Schedule by adding a common equity tier 1 capital data item and the FDIC DFAST 10–50 Balance Sheet Schedules (baseline, adverse, and severely adverse scenarios) by adding a common equity tier 1 risk based capital ratio data item in order to reflect the requirements of the revised capital framework. These revisions would be effective for the 2015 stress test cycle (with reporting in March 2015).

In addition, the FDIC proposes to clarify the FDIC DFAST 10–50 reporting form instructions to emphasize that a covered bank should transition to the revised capital framework requirements in its bank-run stress test projections in the quarter in which the requirements become effective. Specifically, a covered bank would be required to transition to the revised capital framework and begin including the common equity tier 1 capital data item and common equity tier 1 risk based capital ratio data item in projected quarter 2 (1st quarter 2015) through projected quarter 9 (4th quarter 2016) for each supervisory scenario for the 2015 stress test cycle.

The FDIC also proposes several clarifications to the FDIC DFAST 10–50 reporting form instructions, including: Indicating that the Scenario Variables Schedule would be collected as a reporting form in Reporting Central (instead of as a file submitted in Adobe Acrobat PDF format); clarifying what covered banks should include in line items 32 and 33 (retail and wholesale funding) on the Balance Sheet Schedule, with reference to relevant Reports of Condition and Income (Call Report) line items; and finally, clarifying how the supporting qualitative information should be organized. The current instructions do not clearly indicate where a covered bank should place this supporting qualitative information, which includes a description of the types of risk included in the stress test, a summary description of the methodologies used in the stress test, an explanation of the most significant causes for the changes in regulatory capital ratios, and the use of the stress test results. The proposed modifications to the instructions would direct covered banks to place this information in the summary and governance section of the summary of qualitative information document.

Burden Estimates

The FDIC estimates the burden of this collection of information as follows:

Current

Number of Respondents: 22.

Annual Burden per Respondent: 464 hours.

Total Annual Burden: 10,208 hours.

Proposed

Estimated Number of Respondents: 22.

Estimated Annual Burden per Respondent: 469 hours.

Estimated Total Annual Burden: 10,318 hours.

The burden for each $10 billion to $50 billion covered bank that completes the FDIC DFAST 10–50 Results Template and FDIC DFAST 10–50 Scenario Variables Template is estimated to be 469 hours. The burden to complete the FDIC DFAST 10–50 Results Template is estimated to be 440 hours, including 20 hours to input these data and 420 hours for work related to modeling efforts. The burden to complete the FDIC DFAST 10–50 Scenario Variables Template is estimated to be 29 hours. The total burden for all 22 respondents to complete both templates is estimated to be 10,318 hours, or an increase to the total burden of 110 hours.

Comments are invited on all aspects of the proposed changes to the information collection, particularly:

(a) Whether the collection of information is necessary for the proper performance of the functions of the FDIC, including whether the information has practical utility;

(b) The accuracy of the FDIC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology;

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information; and

[8] 78 FR 55340 (September 10, 2013).

[9] 79 FR 24528 (May 1, 2014).

(f) The ability of FDIC-supervised banks and savings associations with assets between $10 billion and $50 billion to provide the requested information to the FDIC by March 31, 2015.

Dated at Washington, DC, this 8th day of August 2014.

Federal Deposit Insurance Corporation.

Ralph E. Frable,

Assistant Executive Secretary.

[FR Doc. 2014–19130 Filed 8–12–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2014–17906) published on page 44171 of the issue for Wednesday, July 30, 2014.

Under the Federal Reserve Bank of Atlanta heading, the entry for *J.C. Jones, Jr.; Carole Jones; Patrick C. Jones, all of Blackshear, Georgia; J.C. Jones, III; 2012 Patrick C. Jones Irrevocable Trust; JCJ Irrevocable Trust; and The Jones Company,* all of Waycross, Georgia, is revised to read as follows:

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *The JCJ Irrevocable Trust, Waycross, Georgia, Mindy L. Jones, Cumming, Georgia, and James C. Jones, III, Blackshear, Georgia, as co-trustees, and the 2012 Patrick C. Jones Irrevocable Trust and Patrick C. Jones, Blackshear, Georgia, as trustee;* to retain voting shares of Jones Bancshares LP, Waycross, Georgia, and thereby indirectly retain voting shares of PrimeSouth Bancshares, Waycross, Georgia, and PrimeSouth Bank, Blackshear, Georgia.

Comments on this application must be received by August 14, 2014.

Board of Governors of the Federal Reserve System, August 8, 2014.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2014–19121 Filed 8–12–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 25, 2014.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Trevor R. Burgess, St. Petersburg, Florida, Marcio Camargo, São Paulo, Brazil, Marcelo Lima, São Paulo, Brazil, Erwin Russel, São Paulo, Brazil, CBM Holdings Qualified Family, L.P. Toronto, Ontario, Canada, the General Partner of which is Marcelo Lima, and Amazonite Family Limited Partnership, Ontario, Canada, the General Partner of which is Erwin Russel, and the Amazonite Family Limited Partnership;* to acquire shares of C1 Financial, Inc., and its subsidiary bank, C1 Bank, both of St. Petersburg, Florida.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Robert W. Breisch, Sr., individually and as co-trustee of the Breisch Living Trust, Phyllis A. Breisch, individually, and as co-trustee of the Breisch Living Trust, The Breisch Living Trust, Thomas R. Bartholet, Robert W. Breisch, Jr., Carla Breisch, Gabrielle L. Breisch, Michael C. Breisch, Brittany C. Breisch, Christina M. Breisch-Harty, Timothy J. Harty, Timothy J. Harty, Jr., Jonathon W. Harty, Kimberly A. Breisch-Rodosky, William J. Rodosky, Jr., Madelynne M. Rodosky;* to acquire shares of First Mazon Bancorp, Inc., Mazon, Illinois and thereby indirectly acquire control Mazon State Bank, Mazon, Illinois.

C. Federal Reserve Bank of Minneapolis (Jacqueline K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Robb B. Kahl, Monona, Wisconsin, Trustee for the Ardath K. Solsrud 2012 Irrevocable Trust dated December 28, 2012; Glenn A. Solsrud 2012 Irrevocable Trust dated December 28, 2012; and Ardath K. Solsrud Revocable Trust Concerning Caprice Corporation,* all of Monona, Wisconsin; each Trust proposes to acquire 25 percent or more of the voting shares of Caprice Corporation, Augusta, Wisconsin, and thereby acquire shares of Unity Bank North, Red Lake Falls, Minnesota. These three trusts to each join and Corinne Esther Solsrud, Mosinee, Wisconsin; Rachel Ann Solsrud Goodell, Augusta, Wisconsin; Gregory Arthur Solsrud, Dunwoody, Georgia; and Brian Kenneth Solsrud, North Oaks, Minnesota; to retain shares as part of the Kahl/Solsrud shareholder group acting in concert.

2. *Robb B. Kahl, Monona, Wisconsin, Trustee for the Ardath K. Solsrud 2012 Irrevocable Trust dated December 28, 2012; Glenn A. Solsrud 2012 Irrevocable Trust dated December 28, 2012; and Ardath K. Solsrud Revocable Trust Concerning Augusta Financial Corporation,* all of Monona, Wisconsin; each Trust proposes to acquire 25 percent or more of the voting shares of Augusta Financial Corporation, Augusta, Wisconsin, and thereby acquire shares of Unity Bank, Augusta, Wisconsin. These three trusts to each join and Corinne Esther Solsrud, Mosinee, Wisconsin; Rachel Ann Solsrud Goodell, Augusta, Wisconsin; Gregory Arthur Solsrud, Dunwoody, Georgia; and Brian Kenneth Solsrud, North Oaks, Minnesota; to retain shares as part of the Kahl/Solsrud shareholder group acting in concert, which controls Company and indirectly controls Bank.

Board of Governors of the Federal Reserve System, August 7, 2014.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2014–19075 Filed 8–12–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments

must be received not later than August 28, 2014.

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. *Red Mountain Partners, L.P., RMCP GP, LLC, Red Mountain Capital Partners LLC, Red Mountain Capital Management, Inc., Willem Mesdag, and Christopher Teets,* collectively, to acquire voting shares of Marlin Business Services Corp., Mount Laurel, New Jersey, and thereby indirectly acquire voting shares of Marlin Business Bank, Salt Lake City, Utah.

Board of Governors of the Federal Reserve System, August 8, 2014.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2014–19122 Filed 8–12–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 8, 2014.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *NEB Corporation,* Fond du Lac, Wisconsin; to acquire 100 percent of the voting shares of InvestorsBank, Waukesha, Wisconsin.

Board of Governors of the Federal Reserve System, August 8, 2014.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2014–19123 Filed 8–12–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The FTC seeks public comments on its proposal to extend through December 31, 2017, the current PRA clearance for information collection requirements contained in its Trade Regulation Rule entitled Labeling and Advertising of Home Insulation (R-value Rule or Rule). That clearance expires on December 31, 2014.

DATES: Comments must be received on or before October 14, 2014.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''R-value Rule: FTC File No. R811001'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/rvaluerulepra1* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the collection of information and supporting documentation should be addressed to Hampton Newsome, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Mail Code CC–9528, 600 Pennsylvania Ave. NW., Washington, DC 20580, (202) 326–2889.

SUPPLEMENTARY INFORMATION:

Proposed Information Collection Activities

Under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520, federal agencies must get OMB approval for each collection of information they conduct, sponsor, or require. ''Collection of information'' means agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing PRA clearance for the information collection requirements associated with the Commission's R-value Rule, 16 CFR Part 460 (OMB Control Number 3084–0109).

The FTC invites comments on: (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, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond. All comments must be received on or before October 14, 2014.

The R-value Rule establishes uniform standards for the substantiation and disclosure of accurate, material product information about the thermal performance characteristics of home insulation products. The R-value of an insulation signifies the insulation's degree of resistance to the flow of heat. This information tells consumers how well a product is likely to perform as an insulator and allows consumers to determine whether the cost of the insulation is justified.

R-value Rule Burden Statement

Estimated annual hours burden: 129,656 hours.

The Rule's requirements include product testing, recordkeeping, and third-party disclosures on labels, fact sheets, advertisements, and other promotional materials. Based on information provided by members of the

insulation industry, staff estimates that the Rule affects: (1) 150 insulation manufacturers and their testing laboratories; (2) 1,615 installers who sell home insulation; (3) 125,000 new home builders/sellers of site-built homes and approximately 5,500 dealers who sell manufactured housing; and (4) 25,000 retail sellers who sell home insulation for installation by consumers.

Under the Rule's testing requirements, manufacturers must test each insulation product for its R-value. Based on past industry input, staff estimates that the test takes approximately two hours. Approximately 15 of the 150 insulation manufacturers in existence introduce one new product each year. Their total annual testing burden is therefore approximately 30 hours.

Staff further estimates that most manufacturers require an average of approximately 20 hours per year regarding third-party disclosure requirements in advertising and other promotional materials. Only the five or six largest manufacturers require additional time, approximately 80 hours each. Thus, the annual third-party disclosure burden for manufacturers is approximately 3,360 hours [(144 manufacturers × 20 hours) + (6 manufacturers × 80 hours)].

While the Rule imposes recordkeeping requirements, most manufacturers and their testing laboratories keep their testing-related records in the ordinary course of business. Staff estimates that no more than one additional hour per year per manufacturer is necessary to comply with this requirement, for an annual recordkeeping burden of approximately 150 hours (150 manufacturers × 1 hour).

Installers are required to show the manufacturers' insulation fact sheet to retail consumers before purchase. They must also disclose information in contracts or receipts concerning the R-value and the amount of insulation to install. Staff estimates that two minutes per sales transaction is sufficient to comply with these requirements. Approximately 2,000,000 retrofit insulations (an industry source's estimate) are installed by approximately 1,615 installers per year, and, thus, the related annual burden total is approximately 66,667 hours (2,000,000 sales transactions × 2 minutes). Staff anticipates that one hour per year per installer is sufficient to cover required disclosures in advertisements and other promotional materials. Thus, the burden for this requirement is approximately 1,615 hours per year. In addition, installers must keep records that indicate the substantiation relied upon for savings claims. The additional time to comply with this requirement is minimal—approximately 5 minutes per year per installer—for a total of approximately 134 hours.

New home sellers must make contract disclosures concerning the type, thickness, and R-value of the insulation they install in each part of a new home. Staff estimates that no more than 30 seconds per sales transaction is required to comply with this requirement, for a total annual burden of approximately 7,700 hours (an estimated 924,000 new home sales per year [1] × 30 seconds). New home sellers who make energy savings claims must also keep records regarding the substantiation relied upon for those claims. Staff believes that the 30 seconds covering disclosures would also encompass this recordkeeping element.

The Rule requires that the approximately 25,000 retailers who sell home insulation make fact sheets available to consumers before purchase. This can be accomplished by, for example, placing copies in a display rack or keeping copies in a binder on a service desk with an appropriate notice. Replenishing or replacing fact sheets should require no more than approximately one hour per year per retailer, for a total of 25,000 annual hours, industry-wide.

The Rule also requires specific disclosures in advertisements or other promotional materials to ensure that the claims are fair and not deceptive. This burden is very minimal because retailers typically use advertising copy provided by the insulation manufacturer, and even when retailers prepare their own advertising copy, the Rule provides some of the language to be used. Accordingly, approximately one hour per year per retailer should suffice to meet this requirement, for a total annual burden of approximately 25,000 hours.

Retailers who make energy savings claims in advertisements or other promotional materials must keep records that indicate the substantiation they are relying upon. Because few retailers make these types of promotional claims and because the Rule permits retailers to rely on the insulation manufacturer's substantiation data for any claims that are made, the additional recordkeeping burden is de minimis. The time calculated for disclosures, above, would be more than adequate to cover any burden imposed by this recordkeeping requirement.

To summarize, staff estimates that the Rule imposes a total of 129,656 burden hours, as follows: 150 recordkeeping and 3,390 testing and disclosure hours for manufacturers; 134 recordkeeping and 68,282 disclosure hours for installers; 7,700 disclosure hours for new home sellers; and 50,000 disclosure hours for retailers. The estimated total burden is approximately 129,656 burden hours.

Estimated annual cost burden:

$2,571,000 (solely related to labor costs and rounded to the nearest thousand).

The total annual labor cost for the Rule's information collection requirements is approximately $2,571,000, derived as follows: Approximately $810 for testing, based on 30 hours for manufacturers (30 hours × $27 per hour for skilled technical personnel); $3,976 for manufacturers' and installers' compliance with the Rule's recordkeeping requirements, based on 284 hours (284 hours × $14 per hour for clerical personnel); $47,040 for manufacturers' compliance with third-party disclosure requirements, based on 3,360 hours (3,360 hours × $14 per hour for clerical personnel); and $2,519,640 for disclosure compliance by installers, new home sellers, and retailers (125,982 hours × $20 per hour for sales persons).[2]

There are no significant current capital or other non-labor costs associated with this Rule. Because the Rule has been in effect since 1980, members of the industry are familiar with its requirements and already have in place the equipment for conducting tests and storing records. New products are introduced infrequently. Because the required disclosures are placed on packaging or on the product itself, the Rule's additional disclosure requirements do not cause industry members to incur any significant additional non-labor associated costs.

Request for Comments

You can file a comment online or on paper. Write ''R-value Rule: FTC File No. R811001'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

[1] See Table Q1 on housing starts for single family and multiple units for 2013 at *https://www.census.gov/construction/nrc/pdf/quarterly_starts_completions.pdf.*

[2] The wage rates for engineering technicians, except drafters (skilled technical personnel), file clerks (clerical personnel), and sales and related occupations (sales persons) are based on recent data from the Bureau of Labor Statistics Occupational Employment Statistics Survey.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like a Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your any comment does not include sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[3] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, the Commission encourages you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/rvaluerulepra1* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write ''R-value Rule: FTC File No. R811001'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 14, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

David C. Shonka,

Principal Deputy General Counsel.

[FR Doc. 2014–19092 Filed 8–12–14; 8:45 am]

BILLING CODE 6750–01–P

[3] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The FTC seeks public comments on proposed information requests by compulsory process to a combined ten or more of the largest cigarette manufacturers and smokeless tobacco manufacturers. The information sought would include, among other things, data on manufacturer annual sales and marketing expenditures. The current FTC clearance from the Office of Management and Budget (''OMB'') to conduct such information collection expires January 31, 2015. The Commission intends to ask OMB for renewed three-year clearance to collect this information.

DATES: Comments on the proposed information requests must be received on or before October 14, 2014.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''Tobacco Reports: Paperwork Comment, FTC File No. P054507'' on your comment, and file the comment online at *https://ftcpublic.commentworks.com/ftc/tobaccoreportspra* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed collection of information should be addressed to Shira Modell, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., Mailstop CC–10507, Washington, DC 20580. Telephone: (202) 326–3116.

SUPPLEMENTARY INFORMATION: For over forty-five years, the FTC has published periodic reports containing data on domestic cigarette sales and marketing expenditures by the major U.S. cigarette manufacturers. The Commission has published comparable reports on smokeless tobacco sales and marketing expenditures for over twenty-five years. Originally, both reports were issued pursuant to statutory mandates. After those statutory mandates were terminated, the Commission continued to collect and publish information obtained from the cigarette and smokeless tobacco industries pursuant to Section 6(b) of the FTC Act, 15 U.S.C. 46(b). As noted above, the current PRA clearance to collect this information is valid through January 31, 2015 (OMB Control No. 3084–0134).

The Commission plans to continue sending information requests annually to the ultimate parent company of several of the largest cigarette companies and smokeless tobacco companies in the United States (''industry members''). The information requests will seek data regarding, *inter alia:* (1) The tobacco sales of industry members; (2) how much industry members spend advertising and promoting their tobacco products, and the specific amounts spent in each of a number of specified expenditure categories; (3) whether industry members are involved in the appearance of their products or brand imagery in television shows, motion pictures, on the Internet, or on social media; (4) how much industry members spend on advertising intended to reduce youth tobacco usage; (5) the events, if any, during which industry members' tobacco brands are televised; and (6) for the cigarette industry, the ''tar'', nicotine, and carbon monoxide yields of their cigarettes. The information will again be sought using compulsory

process under Section 6(b) of the FTC Act.

Under the PRA, 44 U.S.C. 3501–3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the proposed collection of information.

The Commission invites comments on: (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, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Commission also specifically invites comment on whether it should require submission of ''tar,'' nicotine, and carbon monoxide yields for *all* cigarettes sold by the companies. The Commission did require submission of all such data for many years, but most recently has only required the companies to submit those data if they possess them—i.e., if a company does not have yield data on a particular cigarette variety, it does not have to conduct testing on that variety.

The Commission uses the data provided by the cigarette manufacturers to prepare its Cigarette Report, which, in addition to data on cigarette sales and marketing expenditures, includes information on, among other things, the market share of cigarettes filtered versus unfiltered cigarettes, and of regular versus menthol cigarettes.[1] The Report has also included for many years data analyzing sales-weighted ''tar'' yields: Specifically, Tables 4 and 4A present the Domestic Market Share of Cigarettes by ''Tar'' Yield, identifying the market share of cigarettes having ''tar'' yields of 15 mg. or less, 12 mg. or less, 9 mg. or less, 6 mg. or less, and 3 mg. or less.[2] The percentage of cigarette varieties for which ''tar'' yields have been provided has fluctuated in recent years: Yields were provided for 717 of the 752 varieties of cigarettes (95 percent) sold in 2012, but for only 645 of the 807 varieties (80 percent) the companies reported selling in 2011. Continuing to permit the companies to report ''tar,'' nicotine, and carbon monoxide yield data only to the extent they possess those data could render the data in those tables less useful for purposes of analysis within a specific year or over time.

The Commission therefore requests comment on the following:

(1) Whether the market share data in Tables 4 and 4A is still relevant and useful;

(2) Whether the Commission should continue to require the major cigarette manufacturers only to provide yield in their possession, or return to its previous approach of requiring the companies to provide yield data on all varieties of cigarettes they sell;

(3) The additional burden on the companies that would be associated with requiring the companies to provide yield data on all varieties of cigarettes they sell; and

(4) Whether the relevance of the data in Tables 4 and 4A outweighs the additional costs to the manufacturers of conducting the testing necessary to provide data on every variety they sell.

Estimated hours burden: The FTC staff's estimate of the hours burden is based on the time required each year to respond to the Commission's information request. Although the FTC currently anticipates sending information requests each year to the five largest cigarette companies and the five largest smokeless tobacco companies, the burden estimate is based on up to 15 information requests being issued per year to take into account any future changes in these industries. These companies vary greatly in size, in the number of products they sell, and in the extent and variety of their advertising and promotion.

The companies have not taken issue with the staff's burden estimates in prior requests for PRA reauthorization,[3] suggesting that the time most companies would require to gather, organize, format, and produce their responses would range from 30 to 80 hours per information request for the smaller companies, to as much as hundreds of hours for the very largest companies. As an approximation, staff continues to assume a per company average of 180 hours for the ten largest recipients of the Commission's information requests to comply—cumulatively, 1,800 hours per year.

Staff anticipates that if the Commission decides to issue information requests to any additional companies, those companies would be smaller than the primary ten recipients and that the response burden per additional recipient would be less than for the larger companies. Staff believes that the burden should not exceed 60 hours per entity for the smaller recipients of the information requests. Cumulatively, then, the total burden for five additional respondents should not exceed 300 hours per year. Thus, the overall estimated burden for a maximum of 15 recipients of the information requests is 2,100 hours per year. These estimates include any time spent by separately incorporated subsidiaries and other entities affiliated with the ultimate parent company that has received the information request.

Estimated cost burden: Commission staff cannot calculate with precision the labor costs associated with this data production, as those costs entail varying compensation levels of management and/or support staff among companies of different sizes. The staff assumes that paralegals and computer analysts will perform most of the work involved in responding to the Commission Orders, although in-house legal personnel will be involved in reviewing the actual submission to the Commission. The staff continues to use a combined hourly wage of $100/hour for the combined efforts of these individuals.[4] Using this figure, staff's best estimate for the total labor costs for up to 15 information requests is $210,000 per year. Staff believes that the capital or other non-labor costs associated with the information requests are minimal.

[1] The data are also used by researchers outside the Commission.

[2] *See, e.g.,* Federal Trade Commission Cigarette Report for 2011 (2013), at Tables 4 and 4A, *available at http://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-cigarette-report-2011/130521cigarettereport.pdf.* Table 8, which also contains sales weighted ''tar'' yield data was added to the Report in the mid-1990s.

[3] *E.g.,* 76 FR 47187 (Aug. 4, 2011); 76 FR 72706 (Nov. 25, 2011).

[4] Commission staff believes this estimate is conservative: according to data from the Bureau of Labor Statistics, the mean hourly wages for these three occupations are as follows: $24.60 for paralegals; $41.40 for computer and information analysts; and $63.46 for lawyers. Economic News Release, Bureau of Labor Statistics, Table 1—National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2013 (Apr. 1, 2014) (Table 1), *available at http://www.bls.gov/news.release/ocwage.t01.htm.* Even if employees of the major cigarette and smokeless tobacco manufacturers earn more than these hourly wages, the staff believes its $100/hour estimate is appropriate.

Although the information requests may necessitate that industry members maintain the requested information provided to the Commission, they should already have in place the means to compile and maintain business records.

Request for comment: You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 14, 2014. Write ''Tobacco Reports: Paperwork Comment, FTC File No. P054507'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment doesn't include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . . , '' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names. If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/tobaccoreportspra,* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Tobacco Reports: Paperwork Comment, FTC File No. P054507'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 14, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

David C. Shonka,

Principal Deputy General Counsel.

[FR Doc. 2014–19090 Filed 8–12–14; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–14–14VP]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Community Context Matters Study—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The daily use of specific antiretroviral medications by persons without HIV infection, but at high risk of sexual or injection exposure to HIV, has been shown to be a safe and effective HIV prevention method. The Food and Drug Administration approved the use of Truvada® for preexposure prophylaxis (PrEP) in July 2012 and CDC has issued clinical practice guidelines for its use. With approximately 50,000 new HIV infections each year, increasing rates of infection for young MSM, and continuing severe disparities in HIV infection among African-American men and women, incorporation of PrEP into HIV prevention is important. However, as a new prevention tool in very early stages of introduction and use, there is much we need to learn about how to implement PrEP in a real world setting and the need to develop and validate

new measurement tools to capture this information.

CDC is requesting OMB approval to collect data over a 3-year period that will be used to (1) assess the utility of new measures developed or adapted to collect information related to this new intervention (PrEP) and (2) evaluate community contextual factors that may impact the acceptability and successful introduction of a new HIV prevention method. The project will be conducted in communities in each of four cities where PrEP has recently become available through a local community health center.

Once per year for three years, two surveys will be conducted: (1) A community-based survey to be administered to 40 persons per city approached in public venues in the catchment areas of the PrEP clinics, and (2) a key stakeholder survey to be administered to 10 community HIV leaders nominated by PrEP clinic staff and HIV community-based organizations in the clinic communities. Both surveys will collect data on the demographics of the participants, knowledge of PrEP, misinformation about PrEP, and attitudes about it. The neighborhood survey will also include questions about basic HIV knowledge, attitudes, and beliefs as well as information about sexual and drug use behaviors that are indications for PrEP use. For the stakeholder survey, additional questions will be included about type of organization where they work and organizational experience with PrEP. Surveys will be administered face-to-face by trained, local interviewers.

There are no costs to respondents other than their time. The total annual hours are 91.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average hours per response
Neighborhood Survey Street Interview Participant.	Neighborhood Interview Recruitment Script and Informed Consent.	240	1	5/60
Key Stakeholder Participant	Key Stakeholder Telephone Recruitment Script and Informed consent.	60	1	5/60
Street Interview Participant	Survey	160	1	20/60
Key Stakeholder Participant	Survey	40	1	20/60

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–19120 Filed 8–12–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–14–0906]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

The Green Housing Study (OMB No. 0920–0906, expires 11/30/2014)—Extension—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) is seeking a three-year extension of OMB approval for the Green Housing Study. The information collected will help scientists better understand whether green building design features reduce human exposures to chemical and biological agents in the home and/or improve respiratory health of children with asthma. This study directly supports CDC's Healthy People 2020 Healthy Homes' health protection goal. This investigation is also consistent with CDC's Health Protection Research Agenda, which calls for research to identify the major environmental causes of disease and disability and related risk factors.

In 2011, CDC funded two study sites for the Green Housing Study; one location was in Boston and the other was in Cincinnati. In these two cities, renovations sponsored by the Department of Housing and Urban Development (HUD) had already been scheduled. By selecting sites in which renovations were already scheduled to occur, CDC can leverage the opportunity to collect survey and biomarker data from residents and collect environmental measurements in homes in order to evaluate associations between green housing and health.

Although the first two study sites have provided insight into how specific green building practices (e.g., use of low chemical-emitting paints and carpets)

can influence levels of substances in the home such as volatile organic compounds (VOCs), more study sites in different geographic locations will help scientists understand if these relationships hold in different climates and housing stock. This ongoing study provides a foundation to explore the potential for green affordable housing to promote healthy homes principles. This will be accomplished by gathering data from a total of thirteen study sites across the United States.

Study participants will continue to include children with asthma and their mothers/primary caregivers living in HUD-subsidized housing that has either been scheduled to receive a green renovation or is a comparison home (i.e., no renovation). The following are eligible for the study: (1) Children age 7–12 years with asthma and (2) mothers/primary caregivers. The length of follow-up is one year. Questionnaires regarding home characteristics and respiratory symptoms of the children will be administered at 1- to 6-month intervals. Environmental sampling of the air and dust in the respondents' homes will be conducted over a 1-year period: Once in the home before rehabilitation (Baseline), and then at three time points after rehabilitation has been completed (Baseline Part 2, 6 months, and 12 months).

The response rate from enrollment through the end of data collection for the first two study sites was 82%. The expected response rate for the overall study is 80%. To reach the desired number of respondents approximately 1,000 adults (mothers/primary caregivers) will need to complete the screening forms. Approximately 832 mothers/primary caregivers of enrolled children will complete the questionnaires. All health and environmental exposure information about children will be provided by their mothers/primary caregivers (i.e., no children will fill out questionnaires).

There is no cost to the respondents other than their time to participate in the study. The total estimated annual burden hours equals 2,356.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)
Mothers/Primary caregivers of children with asthma.	Screening Questionnaire	1,000	1	10/60
Mothers/Primary caregivers of enrolled children.	Baseline Questionnaire (Home Characteristics).	832	1	15/60
Mothers/Primary caregivers of enrolled children.	Baseline (Part 2) Questionnaire (Home Characteristics).	832	1	5/60
Mothers/Primary caregivers of enrolled children.	Baseline Questionnaire (Demographics)	832	1	5/60
Mothers/Primary caregivers of enrolled children.	Baseline Questionnaire (Children 7–12 with Asthma).	832	1	15/60
Mothers/Primary caregivers of enrolled children.	Text Messages (Children 7–12 with Asthma)	832	8	1/60
Mothers/Primary caregivers of enrolled children.	3 and 9-month Follow-up Questionnaire (Children 7–12 with Asthma).	832	2	5/60
Mothers/Primary caregivers of enrolled children.	6 and 12-month Follow-up Questionnaire (Environment).	832	2	10/60
Mothers/Primary caregivers of enrolled children.	6 and 12-month Follow-up Questionnaire (Children 7–12 with Asthma).	832	2	10/60
Mothers/Primary caregivers of enrolled children.	Time/Activity Questionnaire (Children with Asthma 7–12 years).	832	4	5/60
Mothers/Primary caregivers of enrolled children.	Time/Activity Questionnaire (Mother/Primary Caregiver).	832	4	5/60
Mothers/Primary caregivers of enrolled children.	Illness Checklist	832	4	5/60

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–19104 Filed 8–12–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Multi-Agency Informational Meeting Concerning Compliance With the Import Permit Program; Public Webcast

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of public webcast.

SUMMARY: The Centers for Disease Control and Prevention (CDC) located within the United States Department of Health and Human Services (HHS) announces a public webcast for all individuals who apply for permits to import (1) infectious biological agents, infectious substances, or vectors known to transfer or that are capable of transferring an infectious biological agent to a human; and (2) import items that contain or may contain dangerous agricultural pests and diseases. The purpose of the webcast is to provide guidance related to the import permit program.

DATES: The webcast will be held on Friday, October 24, 2014 from 1 p.m. to 5 p.m. EST. Those wishing to join the webcast must register by October 1, 2014. Registration instructions can be

found on the Web site *http://www.cdc.gov/od/eaipp/*.

ADDRESSES: The webcast will be broadcast from the Centers for Disease Control and Prevention, 1600 Clifton Road NE., Atlanta, Georgia 30329.

FOR FURTHER INFORMATION CONTACT: Von McClee, Division of Select Agents and Toxins, Office of Public Health Preparedness and Response, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS A–46, Atlanta, GA 30333; phone: 404–718–2000; email: *lrsat@cdc.gov*.

SUPPLEMENTARY INFORMATION: This webcast is an opportunity for the affected community (i.e., academic institutions and biomedical centers; commercial manufacturing facilities; federal, state, and local laboratories, including clinical and diagnostic laboratories; research facilities; exhibition facilities; and educational facilities) and other interested individuals to obtain specific guidance and information regarding the import permit program. The webcast will also provide assistance to those interested in applying for an import permit.

Representatives from the Department of Transportation, U.S. Department of Agriculture/Animal and Plant Health Inspection Service, and HHS/CDC will be present during the webcast to address questions and concerns from the web participants.

Individuals who want to participate in the webcast must complete their registration online by October 1, 2014. The registration instructions are located on this Web site: *http://www.cdc.gov/od/eaipp/*. This is a 100% webcast; therefore, no accommodations exist for in-person participation.

Dated: August 8, 2014.

Ron A. Otten,

Acting Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2014–19114 Filed 8–12–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Notice of Meeting of the President's Committee for People With Intellectual Disabilities (PCPID)

AGENCY: Administration on Intellectual and Developmental Disabilities (AIDD Administration for Community Living (ACL), Department of Health and Human Services.

ACTION: Notice of meeting.

DATES: Wednesday, September 3, 2014 from 9:30 a.m. to 5:00 p.m.; Thursday, September 4, 2014 from 9:00 a.m. to 5:00 p.m., and Friday, September 5, 2014 from 9:00 a.m. to 4:00 p.m. (EST).

These meetings will be open to the general public.

ADDRESSES: These meetings will be held in the U.S. Department of Health and Human Services/*Hubert H. Humphrey Building* located at 200 Independence Avenue SW., *Conference Room 505A,* Washington, DC 20201.

Individuals who would like to participate via conference call may do so by dialing toll-free 888–566–6303, when prompted enter pass code: 45348. Individuals whose full participation in the meeting will require special accommodations (e.g., sign language interpreting services, assistive listening devices, materials in alternative format such as large print or Braille) should notify Dr. MJ Karimi, PCPID Team Lead, via email at *MJ.Karimie@acl.hhs.gov,* or via telephone at 202–619–3165, *no later than* Wednesday, August 27, 2014. The PCPID will attempt to accommodate requests made after that date, *but cannot guarantee the ability to grant requests received after this deadline.* All meeting sites are barrier free, consistent with the Americans with Disabilities Act (ADA) and the Federal Advisory Committee Act (FACA).

Agenda: PCPID Appointees will be sworn-in as Members and receive Departmental training for Special Government Employees. The Committee Members will discuss potential topics, themes, and trends for the PCPID Annual Report to the President.

Additional Information: For further information, please contact Dr. MJ Karimi, Team Lead, President's Committee for People with Intellectual Disabilities, 200 Independence Avenue SW., Room 637D, Washington, DC 20201. Telephone: 202–205–3165. Fax: 202–260–3053. Email: *MJ.Karimie@acl.hhs.gov*.

SUPPLEMENTARY INFORMATION: The PCPID acts in an advisory capacity to the President and the Secretary of Health and Human Services, through the Administration on Intellectual and Developmental Disabilities, on a broad range of topics relating to programs, services and supports for persons with intellectual disabilities. The PCPID Executive Order stipulates that the Committee shall: (1) Provide such advice concerning intellectual disabilities as the President or the Secretary of Health and Human Services may request; and (2) provide advice to the President concerning the following for people with intellectual disabilities: (A) Expansion of educational opportunities; (B) promotion of homeownership; (C) assurance of workplace integration; (D) improvement of transportation options; (E) expansion of full access to community living; and (F) increasing access to assistive and universally designed technologies.

Dated: August 7, 2014.

Aaron Bishop,

Commissioner, Administration on Intellectual and Developmental Disabilities (AIDD).

[FR Doc. 2014–19164 Filed 8–12–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Identification of Non-Invasive Biomarkers of Coordinate Metabolic Reprogramming in Colorectal Tumor

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR part 404, that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in the following U.S. Patents and Patent Applications to Cary Pharmaceuticals, Inc. (''Cary'') located in Great Falls, VA, USA.

Intellectual Property

1. United States Provisional Patent No. 61/755,891, issued January 23, 2013, entitled ''Identification of Non-invasive Biomarkers of Coordinate Metabolic Reprograming Colorectal Tumor'';

2. International Patent Application No. PCT/US2014/012758 filed January 23, 2014 entitled ''Compositions and Methods for Detecting Neoplasia'' [HHS Reference No. E–020–2013/0–PCT–02]

The patent rights in these inventions have been assigned to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use will be limited to the use of Licensed Patent Rights for the commercial development of an FDA approved diagnostic/prognostic kit or a class III diagnostic test for human colorectal adenoma (non-malignant polyp) and carcinoma.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of

Technology Transfer on or before September 12, 2014 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated exclusive license should be directed to: Sabarni K. Chatterjee, Ph.D., M.B.A., Licensing and Patenting Manager, Cancer Branch, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5587; Facsimile: (301) 435–4013; Email: *chatterjeesa@od.nih.gov*.

SUPPLEMENTARY INFORMATION: The technology identifies a set of non-invasive metabolic biomarkers in urine samples that are mechanistically associated with colorectal carcinogenesis in a mouse model. In addition, pathways related to the production of these metabolites are also found to be dys-regulated in human colorectal cancer tissues. These indicate that changes in urinary metabolites may be helpful in screening and diagnosis of colorectal cancers. Furthermore, the mechanistic association of these pathways with proliferation suggests that these biomarkers may also be helpful in evaluating and monitoring therapeutic response, remission and relapse in colorectal cancer patients.

This technology is intended for use as an adjunctive screening test for the detection of colorectal tumor or adenoma. A positive result may indicate the presence of colorectal cancer or premalignant colorectal neoplasia (adenoma). This urine based screen would not replace colonoscopy but would assist in the recommendation for additional testing or intervention. Compared to colonoscopy, the currently most commonly used colorectal cancer screening/diagnostic test, the test based on this new technology is non-invasive, cost effective and safer. This technology would be intended for patients who are typical candidates for colorectal cancer screening, adults of either sex, 50 years or older, who are at average risk of developing colorectal cancer.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404. The prospective exclusive license may be granted unless within thirty (30) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR Part 404.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: August 11, 2014.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–19144 Filed 8–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development (NICHD); Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Child Health and Human Development Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. A portion of this meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review and discussion of grant applications. 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 Advisory Child Health and Human Development Council.

Date: September 18, 2014.

Open: September 18, 2014, 8:00 a.m. to 12:00 p.m.

Agenda: Report of the Director, NICHD; Report of the Director, Division of Extramural Research, NICHD; Report of the Scientific Director, Division of Intramural Research; a presentation on the Outstanding Investigator Award (R35); and New Business of the Council.

Closed: September 18, 2014, 1:00 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Center Drive, C-Wing, Conference Room 6, Bethesda, MD 20892.

Contact Person: Cathy Y. Spong, M.D., Director, Division of Extramural Research, *Eunice Kenney Shriver* National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 4A05, MSC 7510, Bethesda, MD 20892, (301) 435–6894.

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 taxis, 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.

In order to facilitate public attendance at the open session of Council in the main meeting room, Conference Room 10, please contact Ms. Lisa Kaeser, Program and Public Liaison Office, NICHD, at 301–496–0536 to make your reservation, additional seating will be available in the meeting overflow rooms, Conference Rooms 7 and 8. Individuals will also be able to view the meeting via NIH Videocast. Please go to the following link for Videocast access instructions at: *http://www.nichd.nih.gov/about/advisory/nachhd/Pages/virtual-meeting.aspx.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: August 7, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–19146 Filed 8–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 a meeting of the National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

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 Clinical Trials and Translational Research Advisory Committee.

Date: November 12, 2014.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: Strategic Discussion of NCI's Clinical and Translational Research Programs.

Place: National Institutes of Health, Building 31, C-Wing, 6th Floor, Room 9 and 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Sheila A. Prindiville, MD, MPH, Director, Coordinating Center for Clinical Trials, National Institutes of Health, National Cancer Institute, Coordinating Center for Clinical Trials, 9609 Medical Center Drive, Room 6W136, Rockville, MD 20850, 240–276–6173, *prindivs@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.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/ctac/ctac.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 7, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–19145 Filed 8–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Arthritis and Musculoskeletal and Skin Diseases Advisory Council

Date: September 8, 2014.

Open: 8:30 a.m. to 11:30 a.m.

Agenda: Discussion of Program Policies.

Place: National Institutes of Health, Building 31, 6th Floor, Room 6C6, 31 Center Drive, Bethesda, MD 20892.

Closed: 12:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 6th Floor, Room 6C6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Laura K. Moen, Ph.D. Director, Division of Extramural Research Activities, NIAMS/NIH, 6700 Democracy Boulevard, Suite 800, Bethesda, MD 20892, 301–451–6515 *moenl@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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: August 7, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–19147 Filed 8–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0121]

Agency Information Collection Activities: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery; Extension, Without Change, of a Currently Approved Collection

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et. seq.). This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery.

DATES: Comments are encouraged and will be accepted for 60 days until October 14, 2014.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0121 in the subject box, the agency name and Docket ID USCIS–2014–0008. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *www.regulations.gov* under e-Docket ID number USCIS–2014–0008;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

SUPPLEMENTARY INFORMATION:

Abstract

The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study.

This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Below we provide the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) projected average annual estimates for the next three years:

(1) *Type of Information Collection:* Extension, without change, of a currently approved collection.

(2) *Title of the Form/Collection:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Agency Form Number; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and households, businesses and organizations.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 30,000 Respondents × (.50) 30 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 15,000 annual burden hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: August 7, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–19102 Filed 8–12–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0004]

Agency Information Collection Activities: Filing Instructions for V Nonimmigrant Status Applicants, Supplement A to Form I–539; Extension, Without Change, of a Currently Approved Collection

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until October 14, 2014.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0004 in the subject box, the agency name and Docket ID USCIS–2007–0038. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *www.regulations.gov* under e-Docket ID number USCIS–2007–0038;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider

limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Filing Instructions for V Nonimmigrant Status Applicants.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Supplement A to Form I–539; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This form will be used for nonimmigrants to apply for an extension of stay, for a change to another nonimmigrant classification, or for obtaining V nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Supplement A to Form I–539 is 200 and the estimated hour burden per response is 30 minutes (.50 hours).

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 100 hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: August 7, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–19103 Filed 8–12–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0120]

Agency Information Collection Activities: Free Training for Civics and Citizenship of Adults, Form G–1190; Civics and Citizenship Toolkit, Form OMB–58; Extension, Without Change, of a Currently Approved Collection

ACTION: 30-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on June 4, 2014, at 79 FR 32306, allowing for a 60-day public comment period. USCIS received one comment in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 12, 2014. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at (202) 395–5806. All submissions received must include the agency name and the OMB Control Number 1615–0120.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Comments

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Free Training for Civics and Citizenship of Adults; Civics and Citizenship Toolkit.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1190, OMB–58; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This information is necessary to register for civics and citizenship of adults training and to obtain a civics and citizenship toolkit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Civics and Citizenship Toolkit: 1,200 responses at 10 minutes (.166 hours) per response. Training for Civics and Citizenship of Adults: 1,100 responses at 10 minutes (.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 383 annual burden hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2134; Telephone 202–272–8377.

Dated: August 7, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–19101 Filed 8–12–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0125]

Agency Information Collection Activities: Dominican Republic-Central America-United States Free Trade Agreement

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-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: Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours based on recent estimates regarding the number of CAFTA–DR claims filed. There are no changes 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 September 12, 2014 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

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: This proposed information collection was previously published in the **Federal Register** (79 FR 31962) on June 3, 2014, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. 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 to respondents or record keepers from the collection of information (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: Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR).

OMB Number: 1651–0125.

Form Number: None.

Abstract: On August 5, 2004, the United States entered into the Dominican Republic-Central America-United States Free Trade Agreement (also known as CAFTA–DR) with Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua. The Agreement was approved by Congress in section 101(a) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Pub. L. 109–53, 119 Stat. 462) (19 U.S.C. 4001) and provides for preferential tariff treatment of certain goods originating in one or more of the CAFTA–DR countries. It was signed into law on August 2, 2005.

In order to ascertain if imported goods are eligible for preferential tariff treatment under CAFTA–DR, CBP collects a certification that contains information such as the name and contact information for importer and exporter; information about the producer of the good; a description of the good; the HTSUS tariff classification; and the applicable rule of origin. This collection of information is provided for by 19 CFR 10.583 through 19 CFR 10.592. Guidance on filing claims under CAFTA–DR may be found at: *http://www.cbp.gov/sites/default/files/documents/us_dominican.pdf.*

Current Actions: This submission is being made to extend the expiration date with a change to the burden hours based on recent estimates of the number of CAFTA–DR claims filed. There are no changes to the information collected.

Type of Review: Extension (with change).

Affected Public: Businesses.

Estimated Number of Respondents: 800.

Estimated Number of Responses per Respondent: 3.

Estimated Number of Total Annual Responses: 2,400.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 4,800.

Dated: August 6, 2014.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2014–19088 Filed 8–12–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Cancellation of Accreditation of St Laboratories Group, LLC, as a Commercial Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Cancellation of accreditation of ST Laboratories Group, LLC as a commercial laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that CBP has cancelled the accreditation of ST Laboratories Group, LLC, to test petroleum and certain petroleum products for customs purposes as of June 20, 2014.

DATES: *Effective Dates:* The cancellation of accreditation of ST Laboratories Group, LLC as a commercial laboratory became effective on June 20, 2014.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 that Customs and Border Protection has cancelled the accreditation of ST Laboratories Group, LLC, 1404 S. Houston Rd., Pasadena, TX 77502, to test petroleum and certain petroleum products for customs purposes for the reasons set forth below. ST Laboratories Group, LLC had been accredited to test petroleum and certain petroleum products as of September 12, 2013. *See* 79 FR 2680 (January 15, 2014). On July 11, 2014, CBP was notified that Nexeo Solutions, LLC purchased ST Laboratories Group, LLC, which is now a wholly-owned subsidiary of the purchasing company. Further, the bond registered with CBP by ST Laboratories Group, LLC was subsequently terminated. Therefore, due to the fact that ST Laboratories Group, LLC no longer exists as a business in the form previously accredited by CBP, the accreditation as a commercial laboratory is cancelled.

Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: August 4, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2014–19087 Filed 8–12–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2014–0023]

Notice of Meeting of the U.S. Customs and Border Protection Airport and Seaport Inspections User Fee Advisory Committee (UFAC)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The U.S. Customs and Border Protection Airport and Seaport Inspections User Fee Advisory Committee (UFAC) will meet Friday, August 29, 2014, from 1:00 to 2:00 p.m. EST via teleconference. The meeting will be open to the public.

DATES: The User Fee Advisory Committee (UFAC) meeting will take place from 1:00 to 2:00 p.m. EST on Thursday, August 28, 2014, via teleconference. Please be advised that the meeting is scheduled for one hour and that the meeting may close early if the committee completes its business.

Registration: If you plan on participating, you must provide your full legal name, email address, and phone number no later than 5:00 p.m. EST on August 26, 2014, via email to *tradeevents@dhs.gov,* via phone at 202–344–1440, or online at *https://apps.cbp.gov/te_reg/index.asp?w=26.* The teleconference call details will be provided to registered members of the public via email or by phone if email is not available. All members of the public wishing to attend should promptly call in at the beginning of the teleconference.

If you have completed an online registration and wish to cancel your registration, you may do so at *https://apps.cbp.gov/te_reg/cancel.asp?w=26.* Please feel free to share this information with interested members of your organizations or associations.

ADDRESSES: The meeting will be held via teleconference. Members of the public interested in attending this teleconference meeting may do so by following the process outlined below (see ''Public Participation''). Written comments submitted prior to the meeting must be received by August 26, 2014. Comments must be identified by USCBP–2014–0023 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: tradeevents@dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–325–4290.
- *Mail:* Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Avenue NW., Room 3.5–A, Washington, DC 20229.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the User Fee Advisory Committee, go to *http://www.regulations.gov* and insert the docket number for this action in the search field.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Avenue NW., Room 3.5–A, Washington, DC 20229; *tradeevents@dhs.gov;* telephone 202–344–1440; facsimile 202–325–4290.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. App.), the Department of Homeland Security hereby announces the meeting of the U.S. Customs and Border Protection Airport and Seaport Inspections User Fee Advisory Committee (UFAC). The User Fee Advisory Committee is tasked with providing advice to the Secretary of Homeland Security (DHS) through the Commissioner of U.S. Customs and Border Protection (CBP) on matters related to the performance of airport and seaport inspections coinciding with the assessment of an agriculture, customs, or immigration user fees. The teleconference meeting of the User Fee Advisory Committee will be held on the date and time specified above. During

the meeting, the User Fee Advisory Committee will create two new subcommittees: The Financial Assessment and Options Subcommittee and the Processes Subcommittee. The Financial Assessment and Options Subcommittee will be responsible for providing Customs and Border Protection an overview of current worldwide user fees being paid by industry, mapping how industry collects and transmits user fees to Customs and Border Protection, and discussing the option of having a third party study that would improve the committee and Customs and Border Protection's understanding of the universe of Customs and Border Protection's budget, costs, and funding sources. The Processes Subcommittee will be responsible for developing advice that would enhance Customs and Border Protection operational efficiencies.

Public Participation: This meeting is open to the public; however, participation in User Fee Advisory Committee deliberations is limited to committee members and Department of Homeland Security officials. Please note that the meeting may close early if all business is finished. Members of the public may register online to attend this User Fee Advisory Committee teleconference meeting as per the instructions set forth above.

Information on Services for Individuals With Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Wanda Tate as soon as possible.

Dated: August 7, 2014.

Maria Luisa Boyce,

Senior Advisor for Private Sector Engagement, Office of Trade Relations, U.S. Customs and Border Protection.

[FR Doc. 2014–19110 Filed 8–12–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–28]

60-Day Notice of Proposed Information Collection: Land Survey Report for Insured Multifamily Projects

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: October 14, 2014.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Theodore K. Toon, Director, Office of Multifamily Development, 451 7th Street SW., Washington, DC 20410; email *Theodore.K.Toon@hud.gov* or telephone 202–402–8386. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Land Survey Report for Insured Multifamily Projects.

OMB Approval Number: 2502–0010.

Type of Request: Extension of currently approved collection.

Form Number: HUD–92457.

Description of the need for the information and proposed use: The information collected on the ''Certificate of Actual Cost'' form provides HUD with information to determine whether the sponsor has mortgage insurance acceptability and to prevent windfall profits. It provides a base for evaluating housing programs, labor costs, and physical improvements in connection with the construction of multifamily housing.

Respondents: Non-profit business.

Estimated Number of Respondents: 216.

Estimated Number of Responses: 432.

Frequency of Response: 2.

Average Hours per Response: 216.

Total Estimated Burdens: 216.

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: August 6, 2014.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–19167 Filed 8–12–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5759–N–11]

60-Day Notice of Proposed Information Collection: Memorandum of Agreement (MOA) and Improvement Plan (IP) in Connection With the Public Housing Assessment System (PHAS)

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: October 14, 2014.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Memorandum of Agreement (MOA), Progress Report and Improvement Plan (IP).

OMB Approval Number: 2577–0237.

Type of Request: Extension of currently approved collection.

Form Number: HUD–53336–A, 53336–Bi, 53336–B, 53337, 53337i and 53338.

Description of the need for the information and proposed use: A Public Housing Agency (PHA) that is designated troubled or substandard under the Public Housing Assessment System (PHAS) must enter into a Memorandum of Agreement (MOA) with HUD to outline its planned improvements. Similarly, a PHA that is a standard performer, but receives a total PHAS score of less than 70% but not less than 60% is required to submit an Improvement Plan (IP). These plans are designed to address deficiencies in a PHA's operations found through the PHAS assessment process (management, financial, physical, or resident related) and any other deficiencies identified by HUD through independent assessments or other methods.

Respondents (i.e. affected public): Public Housing Agencies.

Estimated Number of Respondents: 142.

Estimated Number of Responses: 627.

Frequency of Response: Monthly or quarterly reports.

Average Hours per Response: Approximately 20 hours per response.

Total Estimated Burdens: 12,366 total hours.

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 as amended.

Dated: August 6, 2014.

Merrie Nichols-Dixon,

Deputy Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2014–19166 Filed 8–12–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5765–N–03]

Notice of a Federal Advisory Committee; Manufactured Housing Consensus Committee; Technical Systems Subcommittee Teleconference

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of a Federal Advisory Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a teleconference meeting of the Manufactured Housing Consensus Committee (MHCC), Technical Systems Subcommittee. The teleconference meeting is open to the public. The agenda provides an opportunity for citizens to comment on the business before the consensus committee.

DATES: The teleconference meeting will be held on September 16, 2014, from 1:00 p.m. to 4:00 p.m. EST. The teleconference numbers are: U.S. toll-free: 1–866–622–8461, and Participant Code: 4325434.

FOR FURTHER INFORMATION CONTACT: Pamela Beck Danner, Administrator and Designated Federal Official (DFO), Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Room 9168, Washington, DC 20410, telephone 202–708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5. U.S.C. App. 10(a)(2) through implementing regulations at 41 CFR 102–3.150. The MHCC was established by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 *et seq.*) as amended by the Manufactured Housing Improvement Act of 2000 (Pub. L. 106–569). According to 42 U.S.C. 5403, as amended, the purposes of the MHCC are to:

- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards;
- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulations specifying the permissible scope and conduct of monitoring; and
- Be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation.

The MHCC is deemed an advisory committee not composed of Federal employees.

Public Comment: Citizens wishing to make oral comments on the business of the MHCC Technical Systems

Subcommittee are encouraged to register by or before September 11, 2014, by contacting Home Innovation, 400 Prince Georges Blvd., Upper Marlboro, MD 20774; Attention: Kevin Kauffman, email to: *MHCC@HomeInnovation.com;* phone number 1–888–602–4663. Written comments are encouraged. The MHCC strives to accommodate citizen comments to the extent possible within the time constraints of the meeting agenda. Advance registration is strongly encouraged. The MHCC will also provide an opportunity for public comment on specific matters before the MHCC Technical Systems Subcommittee.

Tentative Agenda

September 16, 2014 From 1:00 p.m. to 4:00 p.m. EST

I. Call to Order and Roll Call
II. Opening Remarks: Subcommittee Chair and DFO
III. New Business—Review items assigned to Technical Systems Subcommittee by MHCC (The following are posted on HUD's MHCC Web site at: *hud.gov/mhs*)
- Log 85 Add new text to 3280.801
- Log 86 Add new text to 3280.806(a)(3)
- Supply Air Ducts Letter—Dated—May 1, 2014
- GAO Report Recommendations on Ventilation Systems and Air Quality, HUD's Transmittal Letter Dated—January 9, 2013

IV. Open Discussion
V. Adjourn: 4:00 p.m.

Dated: August 7, 2014.

Pamela Beck Danner,

Administrator, Office of Manufactured Housing Programs.

[FR Doc. 2014–19171 Filed 8–12–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–FHC–2014–N174; FXFR1334088TWG0W4–123–FF08EACT00]

Trinity Adaptive Management Working Group; Public Meeting and Teleconference

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a public meeting of the Trinity Adaptive Management Working Group (TAMWG). The TAMWG is a Federal advisory committee that affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

DATES: *Public meeting:* TAMWG will meet from 9 a.m. to 4:30 p.m. Pacific Time on Tuesday, September 9, 2014, and from 9 a.m. to 4 p.m. Pacific Time on Wednesday, September 10, 2014. *Deadlines:* For deadlines on submitting written material, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The in-person meeting will be held at the Weaverville Fire District, 125 Bremer Street, Weaverville, CA 96093.

FOR FURTHER INFORMATION CONTACT: Elizabeth W. Hadley, Redding Electric Utility, 777 Cypress Avenue, Redding, CA 96001; telephone: 530–339–7327; email: *ehadley@reupower.com.* Individuals with a disability may request an accommodation by sending an email to the point of contact, and those accommodations will be provided.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the Trinity Adaptive Management Working Group (TAMWG) will hold a meeting.

Background

The TAMWG affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

Meeting Agenda

- Designated Federal Officer (DFO) updates,
- TMC Chair report,
- Executive Director's report,
- TRRP workgroups update,
- Discussion TRRP Program Goals,
- Discussion Follow up from May 15 Joint TMC/TAMWG Meeting,
- Flow update,
- Discussion Vision of a Restored River to Help Guide Restoration,
- Presentation on proposed cuts in Central Valley Project Improvement Act funding for TRRP,
- Presentation Discussion Watershed Work Including the Trinity South Fork,
- Presentation TMC Phase 1 Review Workshop, and
- Public Comment.

The final agenda will be posted on the Internet at *http://www.fws.gov/arcata.*

PUBLIC INPUT

If you wish to	You must contact Elizabeth Hadley (**FOR FURTHER INFORMATION CONTACT**) no later than
Submit written information or questions for the TAMWG to consider during the teleconference.	September 2, 2014.

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the TAMWG to consider during the meeting. Written statements must be received by the date listed in ''Public Input,'' so that the information may be available to the TAMWG for their consideration prior to this meeting. Written statements must be supplied to Elizabeth Hadley in one of the following formats: One hard copy with original signature, one electronic copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, PowerPoint, or rich text file).

Registered speakers who wish to expand on their oral statements, or those who wished to speak but could not be accommodated on the agenda, may submit written statements to Elizabeth Hadley up to 7 days after the meeting.

Meeting Minutes

Summary minutes of the meeting will be maintained by Elizabeth Hadley (see **FOR FURTHER INFORMATION CONTACT**). The minutes will be available for public inspection within 90 days after the meeting, and will be posted on the TAMWG Web site at *http://www.fws.gov/arcata.*

Dated: August 7, 2014.

Nicholas J. Hetrick,

Supervisory Fish Biologist, Arcata Fish and Wildlife Office, Arcata, California.

[FR Doc. 2014–19163 Filed 8–12–14; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1013 (Second Review)]

Saccharin From China; Notice of Commission Determination To Conduct a Full Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) to determine whether revocation of the antidumping duty order on saccharin from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* August 4, 2014.

FOR FURTHER INFORMATION CONTACT: Cynthia Trainor (202–205–3354), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On August 4, 2014, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c) of the Act. All six Commissioners concluded that the domestic group response for this review was adequate and that the respondent group response was inadequate, but that circumstances warranted a full review. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: August 7, 2014.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–19081 Filed 8–12–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On August 7, 2014, the Department of Justice lodged a proposed consent decree with the United States District Court for the Western District of Wisconsin in the lawsuit entitled *United States and State of Wisconsin* v. *Wisconsin Public Service Corporation,* Civil Action No. 14–cv–546.

The United States and the State of Wisconsin filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''). The complaint names Wisconsin Public Service Corporation (''WPSC'') as the defendant. The complaint requests recovery of costs that the United States incurred responding to releases of hazardous substances at the Wisconsin Public Service Corporation Stevens Point MGP Superfund Alternative Site in Stevens Point, Wisconsin. The complaint also seeks injunctive relief. WPSC will pay $37,469.81 in response costs and perform the remedial action that EPA selected for the site. In return, the United States and Wisconsin agree not to sue WPSC under sections 106 and 107 of CERCLA.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Wisconsin* v. *Wisconsin Public Service Corporation,* D.J. Ref. No. 90–11–3–10755. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $45.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $13.25.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–19055 Filed 8–12–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Oil Pollution Act

On August 7, 2014, the Department of Justice lodged a proposed consent decree with the United States District Court for the Middle District of Pennsylvania in a lawsuit entitled *United States* v. *Estate of Michael C. Tranguch and Benito Tranguch, Executor of the Estate of Michael C. Tranguch,* Civil Action No. 3:14–cv–01528.

The proposed Consent Decree will resolve claims alleged under the Oil Pollution Act by the United States against the Estate of Michael C. Tranguch and Benito Tranguch, Executor of the Estate of Michael C. Tranguch for recovery of removal costs relating to discharges and substantial threat of discharges of oil from the Tranguch Gasoline Spill Site in Hazleton, Pennsylvania (the ''Site''). Under the proposed Consent Decree, the

Defendants will sell property at the Site and pay the net proceeds of that sale to the United States. In addition, the Defendants have agreed to certain access requirements and use restrictions at the Site designed to protect the Site remedy, and are required to record an environmental covenant on the Site property that they own so that the access requirements and use restrictions will run with the land in perpetuity. The proposed Consent Decree is based on Defendants' limited ability to pay, as determined by a qualified financial analyst.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Estate of Michael C. Tranguch and Benito Tranguch, Executor of the Estate of Michael C. Tranguch,* D.J. Reference No. 90–5–1–1–10584. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email ...	*pubcomment-ees.enrd@usdoj.gov*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/Consent_Decrees.html.*

We will provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $29.50 (25 cents per page reproduction costs) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $9.00.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 2014–19111 Filed 8–12–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Settlement Order Under the Clean Water Act

On August 7, 2014, the Department of Justice lodged a proposed Stipulation and Order with the United States District Court for the District of Colorado in the lawsuit entitled *United States* v. *Hunt Building Company, Ltd.,* Civil Action No. 1:14–cv–02202.

The proposed Stipulation and Order will resolve Clean Water Act claims alleged in this action by the United States against Hunt Building Company, Ltd. for failure to comply with the conditions of a permit issued pursuant to Section 402 of the Clean Water Act, and for violations of administrative orders issued by the U.S. Environmental Protection Agency pursuant to Section 309(a) of the Clean Water Act. Under the terms of the proposed Stipulation and Order, Defendant will pay a civil penalty in the amount of $310,000, plus interest.

The publication of this notice opens a period for public comment on the proposed Stipulation and Order. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Hunt Building Company, Ltd.,* D.J. Ref. No.90–5–1–1–10123. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email ...	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Stipulation and Order may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the proposed Stipulation and Order upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $2.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–19112 Filed 8–12–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Clean Air Act

Notice is hereby given that on August 7, 2014, a proposed Consent Decree in *United States* v. *Coyne International Enterprises Corp.,* No. 1:14–cv–13260, was lodged with the United States District Court for the District of Massachusetts. The United States filed this action, on the same day that the Consent Decree was lodged with the Court, under the Clean Air Act, 42 U.S.C. 7401 *et seq.* Coyne International Enterprises Corp. (''Coyne'') operates an industrial laundry facility in New Bedford, Massachusetts (''Facility''). The Complaint alleges that Coyne violated the Clean Air Act by constructing the Facility in 1994, and by modifying the Facility in 2005, without first obtaining a permit authorizing such construction or modification in accordance with the nonattainment New Source Review provisions of the Clean Air Act, 42 U.S.C. 7501–7515.

The Consent Decree requires Coyne to pay a $50,000 civil penalty. The Consent Decree also requires Coyne to commence the operation of a Volatile Organic Compound (''VOC'') control system at the Facility that will achieve at least a 50% reduction of VOC emissions associated with the laundering of print and furniture towels by December 31, 2014 or, in the alternative, to cease the laundering of print and furniture towels at the Facility as of that date until such a control system is installed. The Consent Decree resolves the civil claims of the United States for the violations alleged in the Complaint as well as in the Notice of Violation issued by the Environmental Protection Agency to Coyne on August 11, 2011, through the date of lodging of the Consent Decree.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Coyne International Enterprises Corp.,* D.J. Ref. No. 90–5–2–1–10426. All comments must be submitted no later than 30 days after the

publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–19113 Filed 8–12–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Examinations and Testing of Electrical Equipment Including Examination, Testing, and Maintenance of High Voltage Longwalls

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Examinations and Testing of Electrical Equipment Including Examination, Testing, and Maintenance of High Voltage Longwalls,'' 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 September 12, 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=201403-1219-007* (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–MSHA, 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 Examinations and Testing of Electrical Equipment Including Examination, Testing, and Maintenance of High Voltage Longwalls information collection. MSHA regulations require records to be kept on the examination, testing, calibration, and maintenance of covered atmospheric monitoring systems, electric equipment, grounding offtrack direct-current machines and enclosures of related detached components, circuit breakers, electrical work, and devices for overcurrent protection. The records are intended to verify that examinations and tests were conducted and give insight into the hazardous conditions that have been encountered and those that may be encountered. These records greatly assist those who use them in making decisions during accident investigations to establish root causes and to prevent similar occurrences. These decisions will ultimately affect the safety and health of miners. Federal Mine Safety and Health Act of 1977 section 103(h) authorizes this information collection. *See* 30 U.S.C. 813(h).

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 1219–0116.

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 April 8, 2014 (79 FR 19386).

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 thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0116. 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–MSHA.

Title of Collection: Examinations and Testing of Electrical Equipment Including Examination, Testing, and Maintenance of High Voltage Longwalls.

OMB Control Number: 1219–0116.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 1,195.

Total Estimated Number of Responses: 550,280.

Total Estimated Annual Time Burden: 97,336 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: August 7, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–19069 Filed 8–12–14; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Housing Occupancy Certificate—Migrant and Seasonal Agricultural Worker Protection Act

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Wage and Hour Division (WHD) sponsored information collection request (ICR) titled, ''Housing Occupancy Certificate—Migrant and Seasonal Agricultural Worker Protection Act,'' 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 September 12, 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=201402–1235–001* (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–WHD, 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 Migrant and Seasonal Agricultural Worker Protection Act (MSPA) Housing Occupancy Certificate information collection. Any person who owns or controls a facility or real property to be used for housing migrant agricultural workers cannot permit any such worker to occupy the housing unless a copy of a certificate of occupancy from the State, local, or Federal agency that conducted the housing safety and health inspection is posted at the site of the facility or real property. The certificate attests that the facility or real property meets applicable safety and health standards. The housing provider must retain original copy of the certificate for three years and make it available for inspection. Form WH–520 is the form used when the WHD inspects and approves such housing. MSPA section 203(b)(1) authorizes this information collection. *See* 29 U.S.C. 1823(b)(1).

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 1235–0006.

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 March 20, 2014 (79 FR 15556).

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 thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1235–0006. 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–WHD.

Title of Collection: Housing Occupancy Certificate—Migrant and Seasonal Agricultural Worker Protection Act.

OMB Control Number: 1235–0006.

Affected Public: Private Sector—farms.

Total Estimated Number of Respondents: 100.

Total Estimated Number of Responses: 100.

Total Estimated Annual Time Burden: 7 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: August 7, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–19070 Filed 8–12–14; 8:45 am]

BILLING CODE 4510–27–P

OFFICE OF MANAGEMENT AND BUDGET

Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions

AGENCY: Office of Management and Budget.

ACTION: Notice of revised guidance.

SUMMARY: On June 18, 2010, President Obama issued ''Lobbyists on Agency Boards and Commissions,'' a memorandum directing agencies and departments in the Executive Branch not to appoint or re-appoint federally registered lobbyists to advisory committees and other boards and commissions. The Presidential Memorandum further directed the Director of the Office of Management and Budget (OMB) to ''issue proposed guidance designed to implement this policy to the full extent permitted by law.'' The Presidential Memorandum is available at *http://www.whitehouse.gov/the-press-office/presidential-memorandum-lobbyists-agency-boards-and-commissions.* OMB posted proposed guidance on November 2, 2010, and published final guidance on October 5, 2011. *See* 76 FR 61756. OMB is now issuing revised guidance regarding the prohibition against appointing or re-appointing federally registered lobbyists to clarify that the ban applies to persons serving on advisory committees, boards, and commissions in their individual capacity and does not apply if they are specifically appointed to represent the interests of a nongovernmental entity, a recognizable group of persons or nongovernmental entities (an industry sector, labor unions, environmental groups, etc.), or state or local governments.

DATES: *Effective Date:* The Revised Guidance is effective immediately.

Revised Guidance: OMB's Revised Guidance follows in the form of questions and answers:

Q 1: Who is affected by the policy directed in the June 18, 2010 Presidential Memorandum (the ''Memorandum'')?

A 1: Under the Memorandum and this Revised Guidance, federally registered lobbyists may not serve on an advisory committee, board, or commission (hereinafter, ''committee'') in an ''individual capacity.'' In this Revised Guidance, the term ''individual capacity'' refers to individuals who are appointed to committees to exercise their own individual best judgment on behalf of the government, such as when they are designated as Special Government Employees as defined in 18 U.S.C. 202. The lobbyist ban does not apply to lobbyists who are appointed in a ''representative capacity,'' meaning that they are appointed for the express purpose of providing a committee with the views of a nongovernmental entity, a recognizable group of persons or nongovernmental entities (an industry sector, labor unions, or environmental groups, etc.), or state or local government. Appointing authorities already are required to clearly designate the role of committee members to assure their conformity with the applicable conflict of interest rules. *See* 41 CFR 102–3.105(h); *see also* 66 FR 37728, 37744 (July 19, 2001). Agencies should refer to guidance provided by the Office of Government Ethics regarding how to appropriately distinguish between ''individual capacity'' members (e.g., Special Government Employees) and ''representative capacity'' members when making committee appointments. *See* OGE, Federal Advisory Committee Appointments No. 05x4 (Aug. 18, 2005).

The lobbyist policy does not apply to individuals who are registered as lobbyists only at the state level. A lobbyist for purposes of the Memorandum is any individual who is subject to the registration and reporting requirements of the Lobbying Disclosure Act of 1995 (LDA), as amended (2 U.S.C. 1605), at the time of appointment or reappointment to a committee. Agencies may rely on appropriate searches of databases maintained by the House of Representatives and the Senate in identifying federally registered lobbyists.[1] Alternatively, agencies may consider including in their recruitment process for appointing members a way of obtaining written certification from the individual that he or she is not a federally registered lobbyist.

Any individual who previously served as a federally registered lobbyist may be appointed or re-appointed in an individual capacity only if he or she has either filed a bona fide de-registration or has been de-listed by his or her employer as an active lobbyist reflecting the actual cessation of lobbying activities or if they have not appeared on a quarterly lobbying report for three consecutive quarters as a result of their actual cessation of lobbying activities.

Q 2: Does the policy restrict the appointment of individuals who are themselves not federally registered lobbyists but are employed by organizations that engage in lobbying activities?

A 2: No, the policy established by the Memorandum applies only to individuals who are federally registered lobbyists and does not apply to individuals employed by organizations that lobby but are not so registered.

Q 3: What entities constitute ''advisory committees and other boards and commissions'' under the policy?

A 3: The policy directed in the Memorandum applies to any committee, board, commission, council, delegation, conference, panel, task force, or other similar group (or subgroup) created by the President, the Congress, or an Executive Branch department or agency to serve a specific function to which appointment is required, regardless of whether it is subject to the Federal Advisory Committee Act, as amended (5 U.S.C. App.). Appointment includes that which is required or permitted by law or regulation, including appointment at the discretion of the department or agency. Additionally, the ban applies to established committee workgroups and subcommittees, which may or may not require formal appointment.

Q 4: Does the policy apply to non-Federal members of delegations to international bodies?

A 4: Yes, delegations organized to present the United States' position to international bodies are considered to be committees for the purposes of this policy, regardless of whether they constitute advisory committees for purposes of the Federal Advisory Committee Act, as amended (5 U.S.C. App.). Therefore, agencies should not appoint federally registered lobbyists to these delegations if the lobbyists are to serve in an individual capacity.

[1] Lobbying Disclosure, Office of the Clerk, U.S. House of Representatives: *http://lobbyingdisclosure.house.gov;* LDA Reports, U.S. Senate: *http://www.senate.gov/legislative/Public_Disclosure/LDA_reports.htm.*

Q 5: Which individuals are considered to be committee ''members'' and therefore covered by the policy?

A 5: The policy applies to all persons who are serving in an individual capacity as members of committees, including those who are full-time Federal employees and those who have been designated to serve as Special Government Employees. Committee members do not include individuals who are invited to attend meetings of committees on an ad hoc basis.

Q 6: How does the policy apply if a statute or presidential directive provides for appointments to be made by State Governors or by members of Congress?

A 6: While the discretion of appointing authorities outside of the Executive Branch will be respected, those appointing authorities should be encouraged to appoint individuals who are not federally registered lobbyists whenever possible, unless the individuals are appointed to serve in a representative capacity on behalf of an interest group or constituency.

Q 7: How does the policy apply when a statute or presidential directive requires the appointment of a specific representative from an organization and that representative is a federally registered lobbyist?

A 7: The policy does not supersede committee membership requirements established by statute or presidential directive. The Office of Government Ethics has cautioned that the term ''represent'' in a committee's authorizing legislation or in its enabling documents does not necessarily mean that the members of that committee are to be appointed in a representative capacity rather than an individual capacity. *See* OGE, Federal Advisory Committee Appointments No. 05x4 (Aug. 18, 2005). The term ''represent'' frequently is used in a more generic sense with regard to members (e.g., to describe the kinds of expertise, knowledge, or employment background that should be included in a committee's members) rather than for the express purpose of classifying a member's role on the committee. Committee charters should, wherever possible and at the earliest possible time, be amended to conform to the policy, consistent with statutes and presidential directives.

Q 8: Does this policy also restrict the participation of lobbyists as members of a subcommittee or other work group that performs preparatory work for its parent committee?

A 8: Yes, the policy prohibits the appointment of federally registered lobbyists to a subcommittee or any other subgroup that performs preparatory work for a parent committee if the lobbyists are appointed in an individual capacity, whether or not the subcommittee members are appointed in the same manner as are members of the parent committee. The goal of the Memorandum is to restrict the undue influence of lobbyists on Federal government through their membership on committees, which would include subcommittees and other bodies regardless of whether those positions require formal appointment.

Q 9: Does this policy also restrict the participation of lobbyists as witnesses or experts who appear before or submit advice or materials to committees?

A 9: No, lobbyists may still appear before or otherwise communicate with a committee to provide testimony, information, or input in the same manner as non-lobbyists who are not members of or appointees to the advisory committee, board, commission, or any of its subgroups, to the extent permitted by law and regulation. The purpose of the policy is to prevent lobbyists from being in privileged positions in government. It is not designed to prevent lobbyists or others from petitioning their government. When lobbyists do testify, committees should make reasonable efforts to ensure that they hear a balance of perspectives and are not gathering information or advice exclusively from registered lobbyists.

Q 10: What should an agency do if it appoints to a committee an individual who is not a federally registered lobbyist at the time of appointment, but who, after appointment, becomes a federally registered lobbyist?

A 10: Agencies should make clear to all committee members that conducting activities that would require them to be federally registered lobbyists after appointment to serve on a committee in an individual capacity would necessitate their resignation or removal from committee membership. The appointing officers or their delegates shall ensure, at least annually, that committee members serving in an individual capacity are not federally registered lobbyists and, upon reappointment of the members, either shall require each member to certify that he or she is not a federally registered lobbyist or shall check the Federal lobbyist databases to confirm that each member has not registered as a lobbyist since appointment. If an agency finds that, following appointment to a committee in an individual capacity, a member subsequently has become a federally registered lobbyist or has engaged in activities which require registration, the agency shall request the resignation of the member.

Q 11: Will there be any waivers available for circumstances in which a federally registered lobbyist possesses unique or exceptional value to a committee?

A 11: The policy makes no provisions for waivers, and waivers will not be permitted under this policy.

Geovette E. Washington,

General Counsel, Office of Management and Budget.

[FR Doc. 2014–19140 Filed 8–12–14; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0009]

Maintaining the Effectiveness of License Renewal Aging Management Programs

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory issue summary; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Regulatory Issue Summary (RIS) 2014–09, ''Maintaining the Effectiveness of License Renewal Aging Management Programs.'' This RIS reminds holders of renewed licenses of the requirements to maintain the effectiveness of their aging management programs and activities. The RIS explains that, in general, renewed license holders are obligated to maintain these programs and activities under their quality assurance program used to meet regulatory requirements.

ADDRESSES: Please refer to Docket ID NRC–2014–0009 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0009. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422;

email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the 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 RIS is available electronically in ADAMS under Accession No. ML14058A398 and on the NRC's public Web site at *http://www.nrc.gov/reading-rm/doc-collections/gen-comm/reg-issues/* (select RIS 2014–09).

• 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: James Keene, telephone: 301–415–1994, email: *James.Keene@nrc.gov,* or Anthony Markley, telephone: 301–415–3165; email: *Anthony.Markley@nrc.gov,* both are staff of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: The NRC published a notice of opportunity for public comment on this RIS in the **Federal Register** on January 16, 2014 (79 FR 2913). The NRC staff received one set of comments from the Nuclear Energy Institute.

The NRC staff considered all comments which resulted in some changes to the RIS. Its evaluation of these comments and the resulting changes to the RIS are discussed in a publicly available document, which is available in ADAMS under Accession No. ML14071A434.

Dated at Rockville, Maryland, this 6th day of August 2014.

For the Nuclear Regulatory Commission.

Sheldon D. Stuchell,

Chief, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–19194 Filed 8–12–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0210]

Revisions to NUREG–0800, Chapters 2 and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-final section revision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing final revisions to the following sections in Chapters 2 and 3 of NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,'' Section 2.5.1, ''Basic Geologic and Seismic Information,'' Section 2.5.2, ''Vibratory Ground Motion,'' Section 2.5.3, ''Surface Faulting,'' Section 2.5.4, ''Stability of Subsurface Materials and Foundations,'' Section 2.5.5, ''Stability of Slopes,'' and Section 3.7.4, ''Seismic Instrumentation.''

DATES: The effective date of this Standard Review Plan (SRP) update is September 12, 2014.

ADDRESSES: Please refer to Docket ID NRC–2013–0210 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0210. 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 obtain 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 notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The final revisions, previously issued draft revisions for public use and comment, and redline strikeouts comparing final revisions with draft revisions are available in ADAMS under the following Accession Nos.:

SRP section	Final revision	Draft revision	Redline strikeout
2.5.1	ML13316C067	ML12300A231	ML13340A120
2.5.2	ML13316C066	ML12301A010	ML14023A174
2.5.3	ML13316C064	ML12302A003	ML13340A121
2.5.4	ML13311B744	ML12302A004	ML13340A122
2.5.5	ML13316C068	ML12302A005	ML13340A123
3.7.4	ML13324A570	ML12304A031	ML13340A124

The NRC posts its issued staff guidance on the NRC's external Web page: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/.*

FOR FURTHER INFORMATION CONTACT: Jonathan DeGange, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6992; email: *Jonathan.DeGange@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On September 9, 2013 (78 FR 55118), the NRC staff published SRP section 3.7.4 for public comment. Additionally, on September 13, 2013 (78 FR 56749), the NRC staff published SRP sections 2.5.1–2.5.5 for public comment. The NRC staff received no comments on the proposed revisions. This guidance is being issued as final for use. Details of specific changes between current SRP guidance and the final guidance being issued here are included at the end of each of the revised sections themselves, under the ''Description of Changes'' subsections.

II. Backfitting and Issue Finality

These SRP section revisions provide guidance to the staff for reviewing applications for a construction permit and an operating license under part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR) with respect to site

characteristics and parameters, and deigns of structures, components, equipment, and systems. The SRP also provides guidance for reviewing an application for a standard design approval, a standard design certification, a combined license, and a manufacturing license under 10 CFR part 52 with respect to those same subject matters.

Issuance of these SRP section revisions does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) nor is it inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations.

1. *The SRP positions would not constitute backfitting, inasmuch as the SRP is internal guidance to NRC staff.*

The SRP provides internal guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. *The NRC staff has no intention to impose the SRP positions on existing licensees either now or in the future.*

The NRC staff does not intend to impose or apply the positions described in the SRP to existing licenses and regulatory approvals. Hence, the issuance of this SRP—even if considered guidance within the purview of the issue finality provisions in 10 CFR part 52—does not need to be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already issued licenses in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. *Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. Neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions—were intended to apply to every NRC action that substantially changes the expectations of current and future applicants. The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (e.g., an early site permit) or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The NRC staff does not, at this time, intend to impose the positions represented in the SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the SRP section in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

III. Congressional Review Act

In accordance with the Congressional Review Act, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

Dated at Rockville, Maryland, this 30th day of July, 2014.

For the Nuclear Regulatory Commission.

Joseph Colaccino,

Chief, New Reactor Rulemaking and Guidance Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors.

[FR Doc. 2014–19192 Filed 8–12–14; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72790; File No. SR–NYSEMKT–2014–66]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Amex Options Fee Schedule in a Number of Different Ways

August 7, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 1, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to to amend the NYSE Amex Options Fee Schedule (''Fee Schedule'') in a number of different ways. The proposed changes will be operative on August 1, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule in a number of different ways as described below. The proposed changes will be operative on August 1, 2014.

First, the Exchange proposes to increase fees for Firm Proprietary [4] electronic transactions in Penny Pilot issues. Specifically, the Exchange is proposing a fee of $0.34 per contract (increased from $0.32 per contract) for electronic Firm Proprietary transactions in Penny Pilot issues.

Separately, the Exchange is proposing a fee of $0.44 per contract charged to Broker Dealers, Professional Customers, and Non NYSE Amex Options Market Makers that electronically transact in Penny Pilot issues. Currently, Broker Dealers, and Professional Customers pay

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] ''Firm Proprietary'' transactions refer to trades the Firm is entering into on a proprietary basis as opposed to trades entered into in order to facilitate the activity of one of Firm's customers, which is referred to as a ''Firm Facilitation'' trade on the NYSE Amex Options Fee Schedule. Throughout this filing, the Exchange's reference to Firm or Firms shall mean transactions the Firm is executing electronically on a proprietary basis.

$0.32 per contract, and Non NYSE Amex Options Market Makers pay $0.43 per contract, for electronic transactions in Penny Pilot issues.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) [5] of the Act, in general, and Section 6(b)(4) and (5) [6] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes that the proposal to increase fees for electronic transactions in Penny Pilot issues for Firms, Broker Dealers, Professional Customers, and Non NYSE Amex Options Market Makers is reasonable, equitable and not unfairly discriminatory for the following reasons. First, the Exchange notes that the proposed per contract fee of $0.44 for electronic Broker Dealers, Professional Customers, and Non NYSE Amex Options Market Makers and $0.34 for Firm Proprietary transactions, are both within the range of fees charged by other exchanges for Broker Dealers, Professional Customers, Non NYSE Amex Options Market Makers and Firms that electronically transact in Penny Pilot issues.[7]

In addition, the Exchange notes that NYSE Amex Options Market Makers are subject to other fees that are either higher than those charged to—or not at all charged to—Broker Dealers, Professional Customers, Non NYSE Amex Options Market Makers and Firms, such as ATP Permit fees and Rights Fees.[8] For example, in order to transact electronically on the Exchange, a NYSE Amex Options Market Maker is required to have at least one options trading permit (''ATP'') that allows it to quote sixty issues, plus the bottom 45% of issues traded on the Exchange by volume. The cost of one ATP is $8,000 per month. A NYSE Amex Options Market Maker that wishes to transact electronically in all issues on the Exchange is required to have five ATPs, at a monthly cost of $26,000. By comparison, in order to transact electronically on the Exchange, Broker Dealers, Professional Customers, Non NYSE Amex Options Market Makers and Firms are only required to have a single ATP, at a monthly cost of $1,000.[9] The Exchange notes the monthly cost differential of $7,000 to $25,000 in ATP fees paid by NYSE Amex Options Market Makers, while Broker Dealers, Professional Customers, Non NYSE Amex Options Market Makers and Firms incur no such cost. Further, the Exchange notes that a large subset of NYSE Amex Options Market Makers (Specialists, e-Specialists and Directed Order Market Makers) also incur monthly Rights Fees, which are not charged to Broker Dealers, Professional Customers, Non NYSE Amex Options Market Makers and Firms. Therefore, while the NYSE Amex Options Markets Makers may be charged a lower per contract rate than the rate proposed for Broker Dealers, Professional Customers, Non NYSE Amex Options Market Makers and Firms transacting electronically in Penny Pilot issues, when all costs to these participants are considered, the cost differential is much less. Thus, the Exchange believes that charging non-NYSE Amex Market Makers a higher rate to transact electronically in Penny Pilot issues is equitable and reasonable and not unfairly discriminatory vis-à-vis NYSE Amex Market Makers because the higher rate is designed to reflect the costs to the Exchange in supporting trading in Penny Pilot issues.[10]

As noted above, for electronic transactions in Penny Pilot issues, the Exchange proposes to charge $0.34 to Firms and $0.44 to Broker Dealers, Professional Customers, and Non NYSE Amex Options Market Makers. The Exchange believes that the per contract differential between these market participants is reasonable, equitable and not unfairly discriminatory because, among other reasons (discussed below), the rate differential falls within the range that already exists in the industry. For example, Clearing Trading Permit Holder Proprietary (the equivalent of a Firm Proprietary transaction on NYSE Amex) electronic transactions on the Chicago Board Options Exchange (''CBOE'') are charged $0.35 per contract in Penny Pilot issues, while Professionals, Voluntary Professionals, JBO Participants, Broker Dealers and Non-Trading Permit Holder Market Makers on the CBOE are charged $0.45 per contract for electronic transactions in Penny Pilot issues.[11] Thus, the Exchange believes that imposing a fee differential similar to one in existence on a competing exchange—on similar market participants, for the same types of transactions—is likewise reasonable, equitable and not unfairly discriminatory. Further, the Exchange notes that the Miami International Securities Exchange LLC (''MIAX'') recently adopted a monthly Firm fee cap for electronic Firm transactions.[12] In adopting the monthly Firm fee cap, which applied solely to Firms, MIAX stated:

> Providing a fee cap for Firms and not for other types of transactions is not unfairly discriminatory, because it is intended as a competitive response to create an additional incentive for Firms to send order flow to the Exchange in a manner consistent with other exchanges. Firms that value such incentives will have another venue to send their order flow. To the extent that there is additional competitive burden on non-Firm Members, the Exchange believes that this is appropriate because the proposal should incent Members to direct additional order flow to the Exchange and thus provide additional liquidity that enhances the quality of its markets and increases the volume of contracts traded here. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.[13]

Similar to the reasons articulated by MIAX, the Exchange also believes the proposed fee change is not unfairly discriminatory as it is designed to attract order flow to the Exchange in a manner consistent with other exchanges, which will, in turn, increase

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] *See* NASDAQ OMX PHLX (''PHLX'') fee schedule, as of July 23, 2014, located here: *http://www.nasdaqtrader.com/Micro.aspx?id=phlxpricing.* PHLX charges Professionals, Broker Dealers, and Firms $0.48 per contract to transact electronically in Penny Pilot issues. *See also* the Nasdaq Options Market (''NOM'') fee schedule located here: *http://www.nasdaqtrader.com/Micro.aspx?id=OptionsPricing.* NOM charges $0.49 per contract in Penny Pilot issues for Professionals, Broker Dealers, Firms and Non NOM Market Makers that take liquidity.

[8] *See* NYSE Amex Options Fee Schedule dated August 1, 2014 located here: *https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf.*

[9] Of the participants in question, only Firms are members of the Exchange that are billed directly for any ATPs they own. All of the other participants conduct business through an Exchange member that is only required to have a single ATP for all business that flows through them. For example, an Order Flow Provider with a single ATP may route electronic orders to the Exchange on behalf of Broker Dealers, Professional Customers and Non NYSE Amex Options Market Makers.

[10] The Exchange notes that this higher rate is still below the rate charged to an NYSE Amex Options Market Maker—Non Directed that electronically trades with a Customer, which rate would be $0.45, comprised of a $0.20 transaction fee plus a $0.25 marketing charge. *See supra* n. 8.

[11] *See* the CBOE fee schedule as of, July 1, 2014, located here: *http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf.*

[12] *See* Securities and Exchange Release No. 72583 (SR–MIAX–2014–37) (July 10, 2014), 79 FR 41612 (July 16, 2014).

[13] *Id.,* 79 FR at 41613.

liquidity and enhance the quality of the market to the benefit of the investing public. For the forgoing reasons, the Exchange believes that the proposal to charge $0.44 per contract to Broker Dealers, Professional Customers, Non NYSE Amex Options Market Makers and $0.34 to Firms for electronic tractions in Penny Pilot issues is reasonable, equitable and not unfairly discriminatory. The Exchange believes that the proposed fees are also reasonable, equitable and not unfairly discriminatory because the proposed fee changes will apply equally to all Broker Dealers, Professional Customers, Non NYSE Amex Options Market Makers and Firms electronically executed volumes in Penny Pilot issues on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed fee change is reasonably designed to be fair and equitable, and therefore, will not unduly burden any particular group of market participants trading on the Exchange vis-à-vis another group (*i.e.,* Market Markers versus non-Market Makers or Firms versus non-Firms). Specifically, the Exchange believes that Broker Dealers, Professional Customers, Non NYSE Amex Options Market Makers and Firms that are not subject to the additional dues and fees of NYSE Amex Options Market Makers, will not be unduly burdened by the increased transaction fee. Moreover, with respect to the fee differential between Firms versus Broker Dealers, Professional Customers, Non NYSE Amex Options Market Makers, the proposed fees are lower than the range of similar transaction fees found on other options exchanges; therefore, the Exchange believes the proposal is consistent with robust competition by increasing the intermarket competition for order flow from Firms. To the extent that there is additional competitive burden on non-Firm ATP Holders, the Exchange believes that this is appropriate because the proposal should incent ATP Holders to direct additional order flow to the Exchange and thus provide additional liquidity that enhances the quality of its markets and increases the volume of contracts traded here, which, in turn, benefits the investing public. In addition, the Exchange believes that the proposed changes will enhance the competiveness of the Exchange relative to other exchanges. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges and to attract order flow. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [14] of the Act and subparagraph (f)(2) of Rule 19b–4 [15] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2014–66 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–NYSEMKT–2014–66. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2014–66, and should be submitted on or before September 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

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[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(2).

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72787; File No. SR–BATS–2014–018]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Proposed Rule Change To Adopt Rule 14.11(k) To Permit BATS Exchange, Inc. To List Managed Portfolio Shares and To List and Trade Shares of Certain Funds of the Spruce ETF Trust

August 7, 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 August 4, 2014, BATS Exchange, Inc. (''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new BATS Rule 14.11(k) to permit the Exchange to list Managed Portfolio Shares, which are shares of actively managed exchange-traded funds (''ETFs'') for which the portfolio is disclosed quarterly and are further described below. In addition, the Exchange proposes to list and trade shares of certain funds of the Spruce ETF Trust (the ''Trust'') under the proposed BATS Rule 14.11(k). The text of the proposed rule addition is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add new BATS Rule 14.11(k) for the purpose of permitting the listing of Managed Portfolio Shares [3] which are securities issued by an actively managed open-end investment management company.[4] In addition to the above-mentioned proposed rule change, the Exchange proposes to list and trade shares of the following under proposed BATS Rule 14.11(k): Large Cap Fund, Large Cap Value Fund, Large Cap Growth Fund, Large/Mid Cap Fund, Large/Mid Cap Value Fund, Large/Mid Cap Growth Fund, Large Cap Long-Short Fund, Large Cap Value Long-Short Fund, Large Cap Growth Long-Short Fund, Large/Mid Cap Long-Short Fund, and Large/Mid Cap Value Long-Short Fund, Large/Mid Cap Growth Long-Short Fund, and Large Cap Growth Active Insights Fund (each a ''Fund'' and, collectively, the ''Funds''). The shares of each Fund and the shares of the Funds collectively, as applicable, are referred to herein as the ''Shares.''

Proposed Listing Rules

Proposed Rule 14.11(k)(1) provides that the Exchange will consider listing Managed Portfolio Shares that meet the criteria of Rule 14.11(k). Proposed Rule 14.11(k)(2) provides that Rule 14.11(k) is applicable only to Managed Portfolio Shares and that, except to the extent inconsistent with Rule 14.11(k), or unless the context otherwise requires, the rules and procedures of the Board of Directors shall be applicable to the trading on the Exchange of such securities. It also provides that Managed Portfolio Shares are included within the definition of ''security'' or ''securities'' as such terms are used in the Rules of the Exchange. Further, under proposed Rule 14.11(k)(2)(A) through (F), the Exchange is proposing: (i) That it will file separate proposals under Section 19(b) of the Act before the listing of Managed Portfolio Shares; (ii) that transactions in Managed Portfolio Shares will occur throughout the Exchange's trading hours; (iii) that the minimum price variation for quoting and entry of orders in Managed Portfolio Shares is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001; (iv) that the Exchange will implement written surveillance procedures for Managed Portfolio Shares; (v) that Authorized Participants redeeming Managed Portfolio Shares will each sign an agreement with the Investment Company or fund, or their authorized agents, requiring the establishment of a blind trust for the benefit of such Authorized Participant that will receive all consideration from a fund in a redemption, which blind trust will be bound not to disclose the consideration received in a redemption except as required by law and will liquidate any securities received in a redemption in accordance with standing instructions for the Authorized Participant; and (vi) that if the investment adviser to the registered investment company (the ''Investment Company'') issuing Managed Portfolio Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio. Personnel who make decisions on the Investment Company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio.

The Exchange is also proposing that, for purposes of Rule 14.11(k), the following terms shall, unless the context otherwise requires, have the meanings herein specified. As proposed, the term ''Managed Portfolio Share'' means a security that (a) is issued by an Investment Company organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Managed Portfolio Share is a security that represents an interest in an investment company registered under the Investment Act of 1940 (''15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Index Fund Shares, listed and traded on the Exchange under BATS Rule 14.11(c), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index, or combination thereof.

[4] The Trust, the Adviser (as defined below), and the Distributor (as defined below) have applied for certain exemptive relief under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') (the ''Exemptive Relief Application''). *See* Exemptive Relief Application at *http://www.sec.gov/Archives/edgar/data/1006249/000119312511239094/d40app.htm.*

policies; (b) is issued in a predetermined Creation Unit size in exchange for a cash amount equal to the next determined Net Asset Value (''NAV''),[5] as described in more detail below; (c) in the event that for 10 consecutive Business Days, or such shorter period as determined by the issuer, the midpoint of the national best bid and offer at the time of the calculation of the NAV (the ''Bid/Ask Price''),[6] for the security has a discount of 5% or greater from the NAV, the security may be redeemed for cash by any Beneficial Owner in any size less than a Redemption Unit for a cash amount equal to the next determined NAV for at least 15 calendar days; and (d) when aggregated in a number of shares equal to a Redemption Unit, or multiples thereof, may be redeemed at an Authorized Participant's request, which each Authorized Participant will be paid through a blind trust established for its benefit a portfolio of securities and/or cash with a value equal to the next determined NAV. The Exchange proposes that the term ''Beneficial Owner'' means (i) a natural person; (ii) a trust established for the benefit of a natural person or a group of related family members; or (iii) a tax deferred retirement plan where investments are selected by a natural person purchasing for its own account. As proposed, the term ''Intraday Indicative Value'' (''IIV'') is the estimated indicative value of a Managed Portfolio Share based on all of the issuer's holdings as of the close of business on the prior business day. The Exchange proposes that the term ''Creation Unit'' means a specified minimum number of Managed Portfolio Shares that an Authorized Participant may purchase from the issuer for the current NAV. The Exchange proposes that the term ''Redemption Unit'' means a specified number of Managed Portfolio Shares that an Authorized Participant may sell to the issuer for the current NAV and which is also used for determining whether a Beneficial Owner may redeem for cash. Finally, as proposed, the term ''Reporting Authority'' in respect of a particular series of Managed Portfolio Shares means a reporting service designated by the issuer and acceptable to the Exchange as the official source for calculating and reporting information relating to such series, including, but not limited to, the IIV, NAV, or other information relating to the issuance, redemption or trading of Managed Portfolio Shares. A series of Managed Portfolio Shares may have more than one Reporting Authority, each having different functions.

Proposed Rule 14.11(k)(4) sets forth the proposed initial and continued listing criteria applicable to Managed Portfolio Shares. Proposed Rule 14.11(k)(4)(A)(i) and (ii) provides that all series of Managed Portfolio Shares must meet both of the following initial listing criteria: For each series, the Exchange will establish a minimum number of Managed Portfolio Shares required to be outstanding at the time of commencement of trading on the Exchange and the Exchange will obtain a representation from the issuer of each series of Managed Portfolio Shares that the NAV per share for the series will be calculated daily and that the NAV will be made available to all market participants at the same time. Proposed Rule 14.11(k)(4)(B)(i) provides that the IIV for a series of Managed Portfolio Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours.[7] Proposed Rule 14.11(k)(4)(B)(ii) provides that the Exchange will consider the suspension of trading in or removal from listing of a series of Managed Portfolio Shares under any of the following circumstances: (a) If, following the initial twelve-month period after commencement of trading on the Exchange of a series of Managed Portfolio Shares, there are fewer than 50 beneficial holders of the series of Managed Portfolio Shares for 30 or more consecutive trading days; (b) if the value of the IIV is no longer calculated or made available to all market participants at the same time; (c) if the Investment Company issuing the Managed Portfolio Shares has failed to file any filings required by the Securities and Exchange Commission or if the Exchange is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Securities and Exchange Commission to the Investment Company with respect to the series of Managed Portfolio Shares; or (d) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

As proposed, Rule 14.11(k)(4)(B)(iii) provides that if the IIV of a series of Managed Portfolio Shares is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV occurs. If the interruption to the dissemination of the IIV persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to a series of Managed Portfolio Shares is not disseminated to all market participants at the same time it will halt trading in such series until such time as the NAV is available to all market participants.

Proposed Rule 14.11(k)(4)(B)(iv) provides that upon termination of an Investment Company, the Exchange requires the Managed Portfolio Shares issued in connection with such entity be removed from Exchange listing. Proposed Rule 14.11(k)(4)(B)(v) provides that voting rights shall be as set forth in the applicable fund prospectus.

Proposed Rule 14.11(k)(5), which relates to limitation of Exchange liability, provides that neither the Exchange, the Reporting Authority, nor any agent of the Exchange shall have any liability for damages, claims, losses, or expenses caused by any errors, omissions or delays in calculating or disseminating any current portfolio value; the current value of the portfolio of securities or cash value required to be deposited to the open-end management investment company in connection with issuance of Managed Portfolio Shares; the amount of any dividend equivalent payment or cash distribution to holders of Managed Portfolio Shares; net asset value; or other information relating to the purchase, redemption, or trading of Managed Portfolio Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority, or any agent of the Exchange, or any act, condition, or cause beyond the reasonable control of the Exchange, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities.

Features of Managed Portfolio Shares

While funds issuing Managed Portfolio Shares will be actively-

[5] Depending on the context, the term ''NAV'' may refer to the NAV per Share, the NAV per Creation Unit, as defined below, or the NAV of a fund.

[6] The Bid/Ask Price of the Funds will be determined using the midpoint of the national best bid and offer as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Funds and its service providers.

[7] Regular Trading Hours are from 9:30 a.m. to 4:00 p.m. Eastern Time.

managed and, to that extent, will be similar to Managed Fund Shares, Managed Portfolio Shares differ from Managed Fund Shares in the following important respects. First, in contrast to Managed Fund Shares, for which creations are generally effected through an in-kind delivery of securities and cash, creations of Managed Portfolio Shares will generally be effected through a delivery of only cash. Second, whereas Managed Fund Shares are actively-managed funds listed and traded under BATS Rule 14.11(i),[8] which requires a ''Disclosed Portfolio'' to be disseminated at least once daily,[9] the portfolio for an issue of Managed Portfolio Shares will be disclosed at least quarterly in accordance with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act.[10] Third, in connection with the redemption of shares in Redemption Unit size, the delivery of any portfolio securities in kind will generally be effected through a blind trust for the benefit of the redeeming Authorized Participant and the blind trust will liquidate the portfolio securities without disclosing the identity of such securities to the Authorized Participant. Fourth, where the market for the security (specifically the Bid/Ask Price) has a discount of 5% or greater from the NAV for 10 consecutive Business Days, Beneficial Owners will be able to redeem shares for cash directly from a fund for the next 15 calendar days and in any size less than a Redemption Unit at the fund's NAV.

For each series of Managed Portfolio Shares, the IIV that reflects an estimated intraday value of a fund's portfolio will be disseminated. The IIV will be based upon all of a fund's holdings as of the close of the prior business day and will be widely disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. The dissemination of the IIV will allow investors to determine the estimated intra-day value of the underlying portfolio of a series of Managed Portfolio Shares on a daily basis and will provide a close estimate of that value throughout the trading day. The IIV should not be viewed as a ''real-time'' update of the NAV per share of each fund because the IIV may not be calculated in the same manner as the NAV, which will be computed once a day, generally at the end of the business day. Unlike the IIV, which will be based on consolidated last sale information, the NAV per share will be based on the closing price on the primary market for each portfolio security. If there is no closing price for a particular portfolio security, such as when it is subject to a trading halt, a fund may use fair value pricing. That fair value pricing will be carried over to the next day's IIV until the first trade in that stock is reported.

The Exchange, after consulting with various market makers that trade ETFs (and other products) on various exchanges, believes that market makers will be able to make efficient and liquid markets priced near the IIV even without daily disclosure of a fund's underlying portfolio as long as an accurate IIV is disseminated every 15 seconds, each fund's means of achieving its investment objective is clearly disclosed based on publicly available information, and there is typically an ability to manage inventory of Shares through creations and redemptions each day. The Exchange believes that market makers will employ risk-management techniques such as ''statistical arbitrage'', which is currently used throughout the financial services industry, to make efficient markets in exchange traded products as well as corporate issues.[11] This ability should permit market makers to make efficient markets in an issue of Managed Portfolio Shares without knowledge of a fund's underlying portfolio. The Exchange believes that the real-time dissemination of a fund's IIV, together with the knowledge of a fund's means of achieving its investment objective and the right of Authorized Participants to create and redeem shares of each fund daily at the NAV, will be sufficient for market participants to value and trade shares in a manner that will not lead to significant deviations between the shares' Bid/Ask Price and NAV.

The Exchange understands that traders use statistical analysis to derive correlations between different sets of instruments to identify opportunities to buy or sell one set of instruments when it is mispriced relative to the others. For Managed Portfolio Shares, market makers will initially use the knowledge of a fund's means of achieving its investment objective, as described in the applicable fund registration statement, to construct a hedging proxy for a fund, to assist them in managing their risk in connection with trading the shares of a fund. Market makers will then conduct statistical arbitrage between their hedging proxy (for example, the Russell 1000 Index) and the shares of a fund, buying and selling one against the other over the course of the trading day. Market makers will then be able to evaluate how their proxy performed in comparison to the price of the shares of a fund, and use that analysis as well as knowledge of risk metrics, such as volatility and turnover, to enhance their proxy calculation to make it a more efficient hedge.

Market makers have indicated to the Exchange that, after the first several days of trading, there will be sufficient data to run a statistical analysis which will lead to spreads being tightened substantially around the IIV. This is similar to certain other existing exchange traded products (for example, ETFs that invest in foreign securities that do not trade during U.S. trading hours), in which spreads may be generally wider in the early days of trading and then narrow as market makers gain more confidence in their real-time hedges.

[8] The Commission has previously approved listing and trading on the Exchange of numerous actively managed funds under Rule 14.11(i). *See, e.g.,* Securities Exchange Act Release Nos. 67894 (September 20, 2012), 77 FR 59227 (September 26, 2012) (SR–BATS–2012–033) (order approving Exchange listing and trading of the iShares Short Maturity Bond Fund); 68390 (December 10, 2012), 77 FR 74520 (December 14, 2012) (SR–BATS–2012–042) (order approving Exchange listing and trading of the iShares Sovereign Screened Global Bond Fund); 70986 (December 4, 2013), 78 FR 74212 (December 10, 2013) (SR–BATS–2013–051) (order approving Exchange listing and trading of the iShares Liquidity Income Fund); and 72099 (May 6, 2014), 78 FR 27023 (May 12, 2014) (SR–BATS–2014–007) (order approving Exchange listing and trading shares of certain funds of the ProShares Trust).

[9] BATS Rule 14.11(i)(3)(B) defines the term ''Disclosed Portfolio'' as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the investment Company's calculation of net asset value at the end of the business day.

[10] A mutual fund is required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form N–SAR under the 1940 Act, and is required to file its complete portfolio schedules for the first and third fiscal quarters on Form N–Q under the 1940 Act, within 60 days of the end of the quarter. Form N–Q requires funds to file the same schedules of investments that are required in annual and semi-annual reports to shareholders. These forms are available to the public on the Commission's Web site at *www.sec.gov.*

[11] Statistical arbitrage enables a trader to construct an accurate proxy for another instrument, allowing it to hedge the other instrument or buy or sell the instrument when it is cheap or expensive in relation to the proxy. Statistical analysis permits traders to discover correlations based purely on trading data without regard to other fundamental drivers. These correlations are a function of differentials, over time, between one instrument or group of instruments and one or more other instruments. Once the nature of these price deviations have been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. Once a suitable hedging proxy has been identified, a trader can minimize portfolio risk by executing the hedging basket. The trader then can monitor the performance of this hedge throughout the trade period making corrections where warranted.

Description of the Shares and the Funds

BlackRock Fund Advisors is the investment adviser (''BFA'' or ''Adviser'') to the Funds.[12] State Street Bank and Trust Company is the administrator, custodian, and transfer agent for the Trust (the ''Administrator,'' ''Custodian,'' and ''Transfer Agent,'' respectively). BlackRock Investments, LLC (''Distributor'') serves as the distributor for the Trust. As described above, the Trust, the Adviser, and the Distributor have applied for certain exemptive relief under the 1940 Act.[13] The Shares will not be listed for trading on the Exchange until some point after the Exemptive Relief Application is approved and the Issuer's registration statement is effective.

Proposed BATS Rule 14.11(k)(2)(F) provides that, if the investment adviser to the investment company issuing Managed Portfolio Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[14] In addition, Proposed Rule 14.11(k)(2)(F) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Proposed Rule 14.11(k)(2)(F) is identical to BATS Rule 14.11(i)(7) and similar to BATS Rules 14.11(b)(5)(A)(i) and 14.11(c)(5)(A)(i), however, Rules 14.11(k)(2)(F) and 14.11(i)(7) require the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflecting the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a registered broker-dealer, but is affiliated with multiple broker-dealers and has implemented ''fire walls'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to a Fund's portfolio. In addition, Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding a Fund's portfolio. In the event that (a) the Adviser becomes a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

According to the Exemptive Relief Application, each Fund's investment objective will be long-term capital appreciation. To achieve their objective, each Fund will invest, under normal circumstances,[15] at least 80% of its net assets in a portfolio of long positions (or engage in borrowings for the purpose of establishing short positions for the Long-Short funds) in U.S. equity securities.[16] The Funds may in some instances also invest in non-U.S. equity securities with similar market capitalization, liquidity, and risk-return profiles to the U.S. equity securities eligible for investment by the Fund where the Adviser determines that investing in the security is consistent with the Fund's investment objective. The Funds will not be money market funds and thus will not seek to maintain a stable NAV of $1.00 per Share. In the absence of normal circumstances, a Fund may temporarily depart from its normal investment process, provided that such departure is, in the opinion of BFA, consistent with the Fund's investment objective and in the best interest of the Fund. For example, a Fund may hold a higher than normal proportion of its assets in cash in response to adverse market, economic, or political conditions.

Each Fund will hold equity securities of at least 13 non-affiliated issuers, primarily from the 1,200 largest U.S. stocks by market capitalization as determined by The Frank Russell Company annually. Generally, the Large/Mid Cap funds will select securities from a universe of approximately the 1,200 largest equity securities traded on U.S. exchanges and the Large Cap funds will select securities from a universe of approximately the 1,000 largest equity securities traded on U.S. exchanges.

The Funds each intend to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[17] The Funds will invest their respective assets, and otherwise conduct their respective operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

Other Portfolio Holdings

A Fund may, to a limited extent (under normal circumstances, less than 20% of the Fund's net assets), engage in transactions in futures contracts, forward contracts, options, and swaps.[18]

A Fund may also invest a portion of its assets in high-quality money market instruments on an ongoing basis rather than in other investments, when it would be more efficient or less expensive for the Fund to do so, or as cover for other financial instruments held by a Fund, for liquidity purposes, or to earn interest. Money market

[12] BlackRock Fund Advisors is an indirect wholly owned subsidiary of BlackRock, Inc.

[13] *See* note 4, *supra.*

[14] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[15] The term ''under normal circumstances'' includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot, or labor disruption, or any similar intervening circumstance.

[16] Equity securities will include common stock, preferred stock, securities convertible into common stock and securities or other instruments whose price is linked to the value of common stock, which includes, but is not limited to, shares of other investment companies.

[17] 26 U.S.C. 851.

[18] Derivatives include the following: Treasury futures, equity index futures, currency futures, currency forwards, interest rate swaps, credit default swaps, total return swaps, equity index options, and single stock equity options. The derivatives, excluding currency forwards, will be exchange traded and/or centrally cleared. Derivatives are not a principal investment strategy of the Fund. Derivatives might be included in the Funds' investments to serve the investment objectives of the Fund and each Fund's use of derivatives may be used to enhance leverage. Such leverage, however, will never exceed 1/3 of a Fund's total assets.

instruments (''Money Market Instruments'') in which a Fund may invest include: (1) Short-term obligations issued by the U.S. government; (2) negotiable certificates of deposit (''CDs''), fixed time deposits and bankers' acceptances of U.S. and foreign banks and similar institutions; (3) commercial paper rated at the date of purchase ''Prime-1'' by Moody's Investors Service, Inc. or ''A-1+'' or ''A-1'' by Standard & Poor's Ratings Group, Inc., a division of The McGraw-Hill Companies, Inc., or, if unrated, of comparable quality as determined by the Adviser; and (4) money market mutual funds.

Investment Restrictions

A Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment) deemed illiquid by the Adviser [19] under the 1940 Act.[20] A Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities. Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

A Fund will not purchase the securities of issuers conducting their principal business activity in the same industry if, immediately after the purchase and as a result thereof, the value of the Fund's investments in that industry would equal or exceed 25% of the current value of the Fund's total assets, provided that this restriction does not limit the Fund's: (i) Investments in securities of other investment companies, (ii) investments in securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, or (iii) investments in repurchase agreements (including reverse-repurchase agreements) collateralized by U.S. government securities.[21]

Net Asset Value

According to the Exemptive Relief Application, the NAV per Share of a Fund will be computed by dividing the value of the net assets of a Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of Shares of a Fund outstanding, rounded to the nearest cent. Expenses and fees, including, without limitation, the management, administration and distribution fees, will be accrued daily and taken into account for purposes of determining NAV. Interest and investment income on the Trust's assets accrue daily and will be included in a Fund's total assets. The NAV per Share for a Fund will be calculated by the Administrator and determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m., E.T.) on each day that the Exchange is open. The NAV that is published will be rounded to the nearest cent; however, for purposes of determining the price of Shares in creations and redemption, the NAV will be calculated to five decimal places. The Shares of the Funds will not be priced on days on which the Exchange is closed for trading.

Shares of exchange-listed equity securities, options, and investments in futures, including currency, equity index, and single stock futures, will be valued generally by using the last reported official closing or last trading price on the exchange or market on which the security or futures contract is primarily traded at the time of valuation. Swaps and currency forward contracts generally will be valued based on quotations from market makers, which may be based on quotations in the instruments themselves or quotations in the underlying assets from which they are derived, or by a pricing service in accordance with valuation procedures approved by the Fund's board of directors. Money Market Instruments will be valued by one or more pricing services. In determining the value of a Money Market Instrument, pricing services may use certain information with respect to transactions in such investments, quotations from dealers, pricing matrixes, market transactions in comparable investments, various relationships observed in the market between investments, and calculated yield measures.

When last sale prices and market quotations are not readily available, are deemed unreliable or do not reflect material events occurring between the close of local markets and the time of valuation, investments will be valued using fair value pricing as determined in good faith by the Adviser under procedures established by and under the general supervision and responsibility of the Trust's Board of Trustees. Investments that may be valued using fair value pricing include, but are not limited to: (1) Securities that are not actively traded; (2) securities of an issuer that becomes bankrupt or enters into a restructuring; and (3) securities whose trading has been halted or suspended.

The frequency with which each Fund's investments will be valued using fair value pricing will primarily be a function of the types of securities and other assets in which the respective Fund will invest pursuant to its investment objective, strategies and limitations. If the Funds invest in open-end management investment companies registered under the 1940 Act they may rely on the NAVs of those companies to value the shares they hold of them. Those companies may also use fair value pricing under some circumstances.

Valuing the Funds' investments using fair value pricing involves the consideration of a number of subjective factors and thus the prices for those investments may differ from current market valuations. Accordingly, fair value pricing could result in a difference between the prices used to calculate NAV and the prices used to determine a Fund's IIV, which could result in the market prices for Shares deviating from NAV. Similarly, under certain circumstances, fair value pricing

[19] In reaching liquidity decisions, the Adviser may consider factors including: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer); any legal or contractual restrictions on the ability to transfer the security or asset; significant developments involving the issuer or counterparty specifically (*e.g.,* default, bankruptcy, etc.) or the securities markets generally; and settlement practices, registration procedures, limitations on currency conversion or repatriation, and transfer limitations (for foreign securities or other assets).

[20] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[21] The Commission has taken the position that a fund is concentrated if it invests in more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

could also result in the NAV and the IIV values becoming more alike.

The Shares—Creation, Redemption, and Small Allotment Redemption Option

Each Fund will issue Shares through the Distributor on a continuous basis at NAV. The Exchange represents that the issuance of Shares will operate in a manner substantially similar to that of other ETFs and, in particular, certain fixed income ETFs that issue shares (as part of a creation unit) solely for settlement in cash.

Each Fund will issue Shares only at the NAV per Share next determined after an order in proper form is received. The Trust will sell and redeem Shares on each day that the Exchange is open for business (a ''Business Day'') and will not suspend the right of redemption or postpone the date of payment or satisfaction upon redemption for more than seven days, other than as provided by Section 22(d) of the 1940 Act. In addition to the standard redemption process, Beneficial Owners may also submit orders to redeem Shares at NAV directly to a Fund for a limited period following circumstances in which the secondary market price for the Shares at the Valuation Time, as defined below, has deviated from NAV.

The NAV of each Fund is expected to be determined once each Business Day at a time determined by the Trust's Board of Directors (''Board''), currently anticipated to be as of the end of Regular Trading Hours on the Exchange (the ''Valuation Time'').

Creation

Shares may be purchased from a Fund by any Depository Trust Company (''DTC'') Participant that has signed an Authorized Participant Agreement (''AP Agreement'') with the Trust, for its own account or for the account of a customer. Shares will be exchanged for cash, with settlement occurring through the continuous net settlement or a similar process. Shares may be purchased from a Fund in Creation Unit size or multiples thereof. Each Creation Unit currently consists of 25,000 Shares, however, the size of a Creation Unit is subject to change. Purchase orders for one or more Creation Units (a ''Creation Order'') must be placed by or through an Authorized Participant. Each Fund will establish a cut-off time (''Order Cut-Off Time'') for Creation Orders in proper form. To initiate a purchase of Shares, a DTC participant must submit to the Distributor an irrevocable order to purchase such Shares after the most recent prior Valuation Time but not later than the Order Cut-Off Time. The Order Cut-Off Time for a Fund may be its Valuation Time, or may be prior to the Valuation Time if the Board determines that an earlier Order Cut-Off Time for purchase of Shares is in the best interests of Fund shareholders. It is anticipated that the Funds may adopt Order Cut-Off Times prior to their Valuation Time in order to allow the Advisor to: (1) Purchase securities in accordance with the Fund's investment objective and as a result of a creation of Shares (which are made primarily in cash) prior to the market closing; (2) net creations and redemptions orders; and (3) make arrangements for any securities borrowing transactions consistent with a Fund's investment strategy that may be necessary as a result of a creation of Shares in a manner both efficient and consistent with orderly portfolio management.

The Distributor will furnish acknowledgements to those placing purchase orders that such orders have been accepted, but the Distributor may reject any Creation Order. A Creation Order is subject to acceptance by the Trust and must be preceded or accompanied by an irrevocable commitment to deliver the requisite amount of cash. Purchases of Shares will be settled in cash for an amount equal to the applicable NAV per Share purchased plus applicable transaction fees, as discussed below. At the time of settlement, an Authorized Participant will initiate payment of the requisite cash amount, including applicable transaction costs, versus subsequent delivery of the Shares.

Redemption

Beneficial Owners may sell their Shares in the secondary market. Alternatively, investors that own enough Shares to constitute a Redemption Unit (currently, 25,000 Shares, subject to change) or multiples thereof may redeem those Shares by placing an order through an Authorized Participant (''AP'') and in turn through the Distributor, which will act as the Trust's agent for redemption. Each Redemption Unit currently consists of 25,000 Shares, however, similar to Creation Units, the size of a Redemption Unit is subject to change. Beneficial Owners that wish to redeem Shares in less than Redemption Unit size may, in limited circumstances, redeem those Shares directly from the Funds as described below under ''Small Allotment Redemption Option.''

The Shares may be redeemed to a Fund in Redemption Unit size or multiples thereof as described below. Redemption orders of Redemption Units must be placed by or through an Authorized Participant (''AP Redemption Order''). Each Fund will establish an Order Cut-Off Time for redemption orders of Redemption Units in proper form. Redemption Units of the Funds will be redeemable at their NAV per Share next determined after receipt by the Trust of an Authorized Participant redemption order request by the Trust in the manner specified below before the Order Cut-Off Time. To initiate an AP Redemption Order, an Authorized Participant must submit to the Distributor an irrevocable order to redeem such Redemption Unit after the most recent prior Valuation Time but before the Order Cut-Off Time. The Order Cut-Off Time for a Fund may be its Valuation Time, or may be prior to the Valuation Time if the Board determines that an earlier Order Cut-Off Time for redemption of Redemption Units is necessary and is in the best interests of Fund shareholders. An Order Cut-Off Time prior to Valuation Time is primarily necessary because of the redemption process for the Funds. It is contemplated that Authorized Participants will instruct the trustee of its blind trust to liquidate redemption securities in market on close orders on the date of redemption so that Authorized Participants can realize redemption proceeds as close to the Fund's NAV on the redemption date as possible. In order to allow the Adviser sufficient time to identify the redemption securities, transfer the redemption basket of portfolio securities to the blind trusts and permit the trustee adequate time to process liquidation transactions in accordance with the Authorized Participant's instructions, it will likely be necessary to employ an Order Cut-Off Time prior to that time to allow such actions to take place. It is anticipated that all Funds will adopt Order Cut-Off Times for redemptions prior to their Valuation Time in order to facilitate the timely identification and notice to the trustee of the blind trusts (as described below) of securities to be redeemed in-kind.

Consistent with the provisions of Section 22(e) of the 1940 Act and Rule 22e–2 thereunder, the right to redeem will not be suspended, nor payment upon redemption delayed, except for: (1) Any period during which the Exchange is closed other than customary weekend and holiday closings; (2) any period during which trading on the Exchange is restricted; (3) any period during which an emergency exists as a result of which disposal by a Fund of securities owned by it is not reasonably practicable or it is not reasonably practicable for a Fund to determine its NAV; and (4) for such

other periods as the Commission may by order permit for the protection of shareholders.

Redemptions other than redemptions occurring through the Small Allotment Redemption Option, as described below, will occur primarily in-kind, although redemption payments may also be made partly or wholly in cash.[22] The Participant Agreement signed by each Authorized Participant will require establishment of a blind trust to receive distributions of securities in-kind upon redemption.[23] Each Authorized Participant will be required to appoint the Custodian as trustee of its blind trust in order to facilitate orderly processing of redemptions. While the Funds will generally distribute securities in-kind, the Adviser may determine from time to time that it is not in the Fund's best interests to distribute securities in-kind, but rather to sell securities and/or distribute cash. For example, the Adviser may distribute cash to facilitate orderly portfolio management in connection with rebalancing or transitioning a portfolio in line with its investment objective, or if there is substantially more creation than redemption activity during the period immediately preceding a redemption request, or as necessary or appropriate in accordance with applicable laws and regulations. In this manner, the Funds can use in-kind redemptions to reduce the unrealized capital gains that may, at times, exist in a Fund by distributing low cost lots of each security that a Fund needs to dispose of to maintain its desired portfolio exposures. Shareholders of a Fund would benefit from the in-kind redemptions through the reduction of the unrealized capital gains in a Fund that would otherwise have to be realized and, eventually, distributed to shareholders.

The Adviser would be free to select redemption securities that do not represent an exact slice of a Fund's portfolio in an amount equal to the Fund's NAV (inclusive of a cash balancing amount, if any) on any given day, meaning that the securities included in the redemption proceeds indirectly received by an AP may or may not be proportionate to the overall portfolio holdings of a Fund. To the extent a Fund distributes portfolio securities through an in-kind distribution to more than one blind trust for the benefit of that trust's Authorized Participant, the Fund expects to distribute a pro rata portion of the portfolio securities selected for distribution to each redeeming Authorized Participant. After receipt of an AP Redemption Order, the Custodian will typically deliver securities to the blind trust (which securities are determined by the Adviser) with a value approximately equal to the value of the NAV tendered for redemption at the Order Cut-Off Time. The Custodian will make delivery of the securities by appropriate entries on its books and records transferring ownership of the securities to the blind trust, subject to delivery of the Shares redeemed. The trustee of the blind trust will in turn liquidate, hedge or otherwise manage the securities based on instructions from the Authorized Participant.[24] If the trustee is instructed to sell all securities received at the close on the redemption date, the trustee will pay the liquidation proceeds net of expenses plus or minus any cash balancing amount to the Authorized Participant through DTC.[25] The redemption securities that the blind trust receives may mirror the portfolio holdings of a Fund pro rata or, if the Adviser determines to reduce one or more portfolio exposures through an in-kind distribution, may constitute only a portion of the holdings that would not be proportionate to the overall portfolio holdings of a Fund. To the extent a Fund distributes portfolio securities through an in-kind distribution to more than one blind trust for the benefit of each blind trust's Authorized Participant, each Fund expects to distribute a pro rata portion of the portfolio securities selected for distribution to each redeeming Authorized Participant. Authorized Participants will advise the Funds of any securities they are restricted from receiving. If the Authorized Participant would receive a security that it is restricted from receiving, the Funds will deliver cash equal to the value of that security.

The Adviser might choose to select redemption securities that do not represent an exact slice of a Fund's portfolio in order to effectively implement changes to a Fund's portfolio composition, take advantage of tax strategies or address corporate actions. The Adviser represents that this freedom will benefit Beneficial Owners because the Adviser can use redemption events to liquidate unwanted positions without incurring brokerage charges or taxable gains. To address odd lots, fractional shares, tradeable sizes or other situations where dividing securities is not practical or possible, the Adviser may make minor adjustments to the pro rata portion of portfolio securities selected for distribution to each redeeming Authorized Participant on such Business Day.

An AP Redemption Order is subject to acceptance by the Trust and must be preceded or accompanied by an irrevocable commitment to deliver the requisite number of Shares. At the time of settlement, an Authorized Participant will initiate a delivery of the Shares versus subsequent payment against the proceeds, if any, of the sale of portfolio securities distributed to the applicable blind trust plus or minus any cash balancing amounts, and less the expenses of liquidation. The Trust, on behalf of a Fund, will maintain a security interest in the assets of a blind trust and, under applicable documentation, will be entitled to such assets in the event an Authorized Participant fails to make timely delivery of redeemed Shares.

Small Allotment Redemption Option

Beneficial Owners may submit orders to redeem Shares at NAV directly with a Fund as described below. Beneficial Owners may submit orders to redeem Shares at NAV directly to a Fund for a limited period following circumstances in which the secondary market price for the Shares at the Valuation Time has deviated from NAV within specified parameters described below (''Small Allotment Redemption Option'').

A Beneficial Owner will be able to place an order directly to a Fund if, for

[22] It is anticipated that any portion of a Fund's NAV attributable to appreciated short positions will be paid in cash, as securities sold short are not susceptible to in kind settlement. The value of other positions not susceptible to in-kind settlement may also be paid in cash.

[23] The terms of the blind trust will provide that the trust be formed under New York or Massachusetts State law; the Custodian will act as trustee of the blind trusts; and the trustee will be paid by the Authorized Participant a fee negotiated by the Adviser on behalf of Authorized Participants.

[24] Because an Authorized Participant would not know the holdings of its blind trust, it is anticipated that such instructions would be generic standing instructions to the trustee. Although an Authorized Participant could, in its sole discretion, provide different standing instructions, it is expected that, in order to realize proceeds from a redemption at a value as close as possible to the redemption's NAV, all Authorized Participants will likely instruct the trustee of the blind trust to sell all securities received in kind as redemption proceeds at the close of the market on the date of redemption. For this reason, an Order Cut-Off Time prior to the Valuation Time for redemptions will be necessary so that the Adviser is able to identify securities to be redeemed in-kind to the Custodian prior to the close of the market on the redemption date.

[25] Under applicable provisions of the Internal Revenue Code, the Authorized Participant is expected to be deemed a ''substantial owner'' of the blind trust because it receives distributions from the blind trust. As a result, all income, gain or loss realized by the blind trust will be directly attributed to the Authorized Participant. In a redemption, the Authorized Participant will have a basis in the distributed securities equal to the fair market value at the time of the distribution and any gain or loss realized on the sale of those Shares will be taxable income to the Authorized Participant.

10 consecutive Business Days, the Bid/Ask Price has a discount of 5% or greater from NAV (the ''Trigger Event''). Following a Trigger Event, all Beneficial Owners of a Fund will have the option, beginning on the first Business Day after a Trigger Event and ending 15 calendar days following the Trigger Event (the ''Small Allotment Redemption Notice Period''), to instruct the DTC Participant through which they hold Shares to submit an order to redeem Shares directly from the Fund (''Small Allotment Redemption Order''). Redemption proceeds in connection with any Small Allotment Redemption Option will be distributed in cash. Any Beneficial Owner may submit a Small Allotment Redemption Order during the Small Allotment Redemption Notice Period, but may only submit an amount of Shares for redemption smaller than a Redemption Unit. During the Small Allotment Redemption Notice Period, redemptions of Redemption Units by and through Authorized Participants will remain available.

On each Business Day during the Small Allotment Redemption Period, a Fund will process all Small Allotment Redemption Orders received at the NAV of the Fund next calculated following submission of the Small Allotment Redemption Order in proper form, subject to a redemption fee for administering and processing such orders, not to exceed 2% of NAV of the Shares redeemed. The date the Small Allotment Redemption Order is received in proper form will be the redemption date with respect to those Shares (the ''Redemption Date''). Each Fund will establish a cut-off time for Small Allotment Redemption Orders in proper form, which may be earlier than the time of calculation of the NAV in order to facilitate the timely submission of such orders from DTC to the Transfer Agent, in its capacity as the redemption agent for the Funds, for processing the order at NAV on each applicable Redemption Date. All instructions from Beneficial Owners to their DTC Participants to submit a Small Allotment Redemption Order in proper form will be processed by the DTC Participant and submitted through DTC as long as it is received prior to the cut-off time, resulting in an aggregated redemption order received by the Transfer Agent from DTC on that Business Day. Any redemption instructions submitted by a DTC Participant on behalf of Beneficial Owners to DTC and received in proper form by the Transfer Agent/Redemption Agent shall be irrevocable. Only Small Allotment Redemption Orders for an amount of Shares smaller than a Redemption Unit will be considered in proper form.

The date of payment upon redemption will not exceed seven days after the Redemption Date, other than as provided by Section 22(d) of the Act. The cash proceeds from any Small Allotment Redemption Order received are generally expected to be delivered through DTC to the applicable DTC Participant's account at DTC. The DTC Participant will in turn deposit the proceeds in the Beneficial Owner's account or the account of the financial institution carrying the account of the Beneficial Owner.

Upon the occurrence of a Trigger Event, a Fund will notify Beneficial Owners of the [sic] their ability to place a Small Allotment Redemption Order by (a) issuing a press release, (b) delivering notice, via the Transfer Agent and DTC, to the DTC Participant, and (c) posting information about the Small Allotment Redemption Notice Period on the Fund's Web site. Notice delivered through DTC will closely resemble existing DTC processes commonly used to notify beneficial shareholders with respect to corporate actions that require shareholder response or action.[26] Following notice to DTC of the Trigger Event, owners of record of a Fund (which are also DTC Participants) are then expected to use their standard notification procedures to disseminate the necessary information to Beneficial Owners to participate in the Small Allotment Redemption Option, in accordance with FINRA requirements and pursuant to any agreement between a DTC Participant and the Beneficial Owner.[27] Shareholders who wish to place a Small Allotment Redemption Order should so instruct their intermediary. If the intermediary is a DTC Participant, it will notify DTC (and, through DTC, the Transfer Agent) of any Small Allotment Redemption Orders received from Beneficial Owners and deliver Shares to be redeemed to the Transfer Agent at an account maintained at DTC for such purpose.[28]

No more than one Small Allotment Redemption Notice Period may exist for any one Fund at any time. In the event that a Trigger Event still exists after a Small Allotment Redemption Notice Period has ended, a subsequent Small Allotment Redemption Notice Period will commence on the first Business Day following the last Business Day of the previous Small Allotment Redemption Notice Period. Any Small Allotment Redemption Order placed during the subsequent Small Allotment Redemption Notice Period will be subject to the same processes and requirements applicable to a Small Allotment Redemption Order placed during the previous Small Allotment Redemption Notice Period.

The Small Allotment Redemption Option will be subject to Board oversight. The Small Allotment Redemption Option will be included in the organizational documents or resolutions of the Funds before the commencement of operations.

Transactions

The Trust may impose purchase or redemption transaction fees (''Transaction Fees'') in connection with the purchase or redemption of Shares from the Funds. The exact amounts of any such Transaction Fees will be determined by the Adviser but for redemptions will not exceed 2% of NAV of the Shares being redeemed. The purpose of the Transaction Fees is to protect the continuing shareholders against possible dilutive transactional expenses, including operational processing and brokerage costs, associated with establishing and liquidating portfolio positions, including short positions, in connection with the purchase and redemption of Shares. The Adviser believes that imposing Transaction Fees will best respond to market needs and help to defray certain costs that would otherwise be borne by the Funds, such as custodian transaction fees and

[26] Based on the issuer of the Funds' (the ''Issuer'') current understanding of DTC processes for corporate actions, the Issuer expects that the Transfer/Redemption Agent will transmit files to the DTC providing the necessary information for DTC to initiate the Small Allotment Redemption Notice Period. The DTC will validate the information and will send a confirmation back to the Transfer/Redemption Agent that the Small Allotment Notice Period has commenced. The DTC will then transmit information about the commencement of the Small Allotment Notice Period to broker-dealers to notify the Beneficial Owners.

[27] *See e.g.,* Financial Industry Regulatory Authority (''FINRA'') Rule 2251, which requires members to forward issuer-related materials to a beneficial owner if the member carries the account for such beneficial owner. The Issuer believes that broker-dealers that own Shares in an account at DTC will be required under such rule to forward notice of the Trigger Event and the opening of the Small Allotment Redemption Notice Period to all customers who are Beneficial Owners.

[28] The Issuer believes that for non-DTC Participants, a similar process will apply through their clearing firms. For example, in the case of a broker-dealer intermediary that is not a DTC Participant, the Issuer expects that the intermediary will notify its clearing firm of any Small Allotment Redemption Orders received from Beneficial Owners. The clearing firm will, in turn, notify DTC (and, through DTC, the Transfer/Redemption Agent) of the Small Allotment Redemption Orders and deliver Shares to be redeemed to the Transfer Agent at an account maintained at DTC for such purpose.

various other fund overhead costs and fund accounting costs.

The Adviser, in its sole discretion, may determine the Transaction Fees for the purchase or redemption of Shares, which may be increased, decreased or otherwise modified from time to time, provided that the Transaction Frees (assessed/charged) on redemption transactions may not exceed 2% of NAV of the Shares being redeemed. The currently effective creation and redemption Transaction Fees will be specified in each Fund's most recent registration statement. Such Transaction Fees will be limited to amounts that will have been determined by the Adviser to be appropriate and will take into account transaction and operational processing costs associated with the recent purchases and sales of investments made by the Trust. In all cases, such Transaction Fees will be limited in accordance with then existing requirements of the Commission applicable to management investment companies offering redeemable securities.

Only DTC Participants that have signed an AP Agreement with the Trust and their customers will be able to acquire Shares at NAV directly from a Fund through the Distributor. The entire required cash payment must be transferred in the manner specified by the Trust on or before the date and time specified therein. These investors and others will also be able to purchase Shares in secondary market transactions at prevailing market prices. Each Fund will reserve the right to reject any purchase order at any time.

Additional information regarding the Shares and each Fund, including investment strategies, risks, creation and redemption procedures, fees and expenses, portfolio holdings disclosure policies, distributions, taxes and reports to be distributed to beneficial owners of the Shares are proposed to be available in each Fund's registration statement or on the Web site for the Funds (*www.iShares.com*), as applicable.

Availability of Information

The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Funds that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for the Funds: (1) The prior business day's reported NAV, the Bid/Ask Price, daily trading volume, and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The Web site and information will be publicly available at no charge.

As noted above, a mutual fund is required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form NSAR under the 1940 Act, and is required to file its complete portfolio schedules for the first and third fiscal quarters on Form N–Q under the 1940 Act, within 60 calendar days from the end of the quarter. Form N–Q requires funds to file the same schedules of investments that are required in annual and semi-annual reports to shareholders. The Trust's SAI and each Fund's shareholder reports will be available free upon request from the Trust. These documents and forms may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.*

Daily trading volume information will be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public Web sites.

The IIV, which is the approximate value of each Fund's investments on a per Share basis, will be disseminated every 15 seconds during Regular Trading Hours. The IIV should not be viewed as a ''real-time'' update of NAV because the IIV may not be calculated in the same manner as NAV, which is computed once per day.

An independent third party calculator will calculate the IIV for each Fund during, at least, Regular Trading Hours, by dividing the ''Estimated Fund Value'' (as described below) as of the time of the calculation by the total number of outstanding Shares of that Fund. ''Estimated Fund Value'' is the sum of the estimated amount of cash held in a Fund's portfolio, the estimated amount of accrued interest owed to a Fund and the estimated value of the securities held in the Fund's portfolio, minus the estimated amount of a Fund's liabilities.

The Funds will provide the independent third party calculator with information to calculate the IIV, but the Funds will not be involved in the actual calculation of the IIV.[29]

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Exemptive Relief Application. In addition, the quotations of certain of the Fund's holdings may not be updated during U.S. trading hours if such holdings do not trade in the United States or if updated prices cannot be ascertained. Price information for the exchange-listed equity securities held by the Funds will be available through major market data vendors and national securities exchanges listing and trading such securities. All equity securities held by the Funds will be listed on national securities exchanges.

Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available on the facilities of the CTA.

Initial and Continued Listing

The Shares will be subject to BATS Rule 14.11(k), which sets forth the initial and continued listing criteria applicable to Managed Portfolio Shares. The Exchange represents that, for initial and/or continued listing, the Funds must be in compliance with Rule 10A–3 under the Act.[30] A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Funds. The Exchange will halt trading in the Shares under the conditions specified in BATS Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) If the IIV applicable to a Fund's Shares is not being disseminated as required; (2) the extent to which trading is not occurring in the securities

[29] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs published via the Consolidated Tape Association (''CTA'') or other data feeds.

[30] *See* 17 CFR 240.10A–3.

and/or the financial instruments comprising the holdings of a Fund; or (3) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(k)(4)(B)(iii), which sets forth circumstances under which Shares of the Funds may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BATS will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BATS Rule 11.11(a), the minimum price variation for quoting and entry of orders in Managed Portfolio Shares traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products. The Exchange may obtain information regarding trading in the Shares and the underlying shares in equity securities, futures, and options via the Intermarket Surveillance Group (''ISG''), from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[31] The Funds' Adviser will make available to the Exchange the portfolio holdings of each Fund in order to facilitate the performance of the surveillances referred to above. The Exchange prohibits the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares of each Fund. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units and Redemption Units as well as in amounts less than a Redemption Unit through Small Allotment Redemptions; (2) BATS Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the IIV is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening[32] and After Hours Trading Sessions[33] when an updated IIV will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to each Fund. Members purchasing Shares from the Funds for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that the Funds are subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Funds and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Funds will be publicly available on the Funds' Web site.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[34] in general and Section 6(b)(5) of the Act[35] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that proposed Rule 14.11(k) is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest in that the proposal will allow issuers to list, and market participants to invest in, a new type of exchange traded product.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that Managed Portfolio Shares would be listed and traded on the Exchange pursuant to the proposed Rule 14.11(k), which the Exchange believes creates sufficiently rigorous standards related to the initial listing, continued listing, and surveillance of Managed Portfolio Shares as to prevent market manipulation and fraud in such securities. Proposed Rule 14.11(k)(4) sets forth the proposed initial and continued listing criteria applicable to Managed Portfolio Shares. Proposed Rule 14.11(k)(4)(A)(i) and (ii) provides that all series of Managed Portfolio Shares must meet both of the following initial listing criteria: for each series, the Exchange will establish a minimum number of Managed Portfolio Shares required to be outstanding at the time of commencement of trading on the Exchange and the Exchange will obtain a representation from the issuer of each series of Managed Portfolio Shares that the NAV per share for the series will be calculated daily and that the NAV will be made available to all market participants at the same time. Proposed Rule 14.11(k)(4)(B)(i) provides that the IIV for a series of Managed Portfolio Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. Proposed Rule 14.11(k)(4)(B)(ii) provides that the Exchange will consider the suspension of trading in or removal from listing of a series of Managed Portfolio Shares under any of the following circumstances: (a) If, following the initial twelve-month period after commencement of trading on the Exchange of a series of Managed Portfolio Shares, there are fewer than 50 beneficial holders of the series of Managed Portfolio Shares for 30 or more

[31] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.* The Exchange notes that not all components of the Funds may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange also notes that all of the equity securities, futures, and options will trade on markets that are a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[32] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[33] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

[34] 15 U.S.C. 78f.

[35] 15 U.S.C. 78f(b)(5).

consecutive trading days; (b) if the value of the IIV is no longer calculated or made available to all market participants at the same time; (c) if the Investment Company issuing the Managed Portfolio Shares has failed to file any filings required by the Securities and Exchange Commission or if the Exchange is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Securities and Exchange Commission to the Investment Company with respect to the series of Managed Portfolio Shares; or (d) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

As proposed, Rule 14.11(k)(4)(B)(iii) provides that if the IIV of a series of Managed Portfolio Shares is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV occurs. If the interruption to the dissemination of the IIV persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to a series of Managed Portfolio Shares is not disseminated to all market participants at the same time it will halt trading in such series until such time as the NAV is available to all market participants.

Proposed Rule 14.11(k)(2)(F) provides that, if the investment adviser to the Investment Company issuing Managed Portfolio Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio. Personnel who make decisions on the Investment Company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio.

With respect to the proposed listing and trading of Shares of the Funds, the Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial listing criteria, continued listing criteria, and the surveillance procedures set forth in BATS Rule 14.11(k), which, as described above, the Exchange believes are sufficiently rigorous to prevent market manipulation and fraud in such securities. The Exchange further believes that the proposed rule change prevents fraudulent and manipulative acts and practices because the Issuer has also represented that each Fund will be subject to the following diversity and market capitalization standards, which will further help prevent fraudulent and manipulative acts in both the Funds and their respective underlying securities. Each fund will hold equity securities of at least 13 non-affiliated issuers, primarily from the 1,200 largest U.S. stocks by market capitalization as determined by The Frank Russell Company annually. Generally, the Large/Mid Cap funds will select securities from a universe of approximately the 1,200 largest equity securities traded on U.S. exchanges and the Large Cap funds will select securities from a universe of approximately the 1,000 largest equity securities traded on U.S. exchanges. A Fund will not purchase the securities of issuers conducting their principal business activity in the same industry if, immediately after the purchase and as a result thereof, the value of the Fund's investments in that industry would equal or exceed 25% of the current value of the Fund's total assets, provided that this restriction does not limit the Fund's: (i) Investments in securities of other investment companies, (ii) investments in securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, or (iii) investments in repurchase agreements (including reverse-repurchase agreements) collateralized by U.S. government securities.[36] According to the Exemptive Relief Application, each Fund's investment objective will be long-term capital appreciation. To achieve their objective, each Fund will invest, under normal circumstances, at least 80% of its net assets in a portfolio of long positions (or engage in borrowings for the purpose of establishing short positions for the Long-Short funds) in U.S. equity securities. The Funds may in some instances also invest in non-U.S. equity securities with similar market capitalization, liquidity, and risk-return profiles to the U.S. equity securities eligible for investment by the Fund where the Adviser determines that investing in the security is consistent with the Fund's investment objective. The Funds will not be money market funds and thus will not seek to maintain a stable NAV of $1.00 per Share. In the absence of normal circumstances, a Fund may temporarily depart from its normal investment process, provided that such departure is, in the opinion of BFA, consistent with the Fund's investment objective and in the best interest of the Fund. For example, a Fund may hold a higher than normal proportion of its assets in cash in response to adverse market, economic, or political conditions. The Funds each intend to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[37] The Funds will invest their respective assets, and otherwise conduct their respective operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

A Fund may, to a limited extent (under normal circumstances, less than 20% of the Fund's net assets), engage in transactions in futures contracts, forward contracts, options, and swaps.[38]

A Fund may also invest a portion of its assets in Money Market Instruments on an ongoing basis rather than in other investments, when it would be more efficient or less expensive for the Fund to do so, or as cover for other financial instruments held by a Fund, for liquidity purposes, or to earn interest.

A Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment) deemed illiquid by the Adviser[39] under the 1940 Act.[40] A Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities. Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance

The listing and trading of such securities is subject to the rules of the exchanges on which they are listed and traded, as approved by the Commission. The Funds will primarily hold securities consisting of the 1,200 largest U.S. stocks by market capitalization as

[36] *See* note 21, *supra.*

[37] 26 U.S.C. 851.

[38] *See* note 18, *supra.*

[39] *See* note 19, *supra.*

[40] *See* note 20, *supra.*

determined by The Frank Russell Company annually. To the Extent that a Fund invests in futures contracts, forward contracts, options, and swaps, such investments will be consistent with the Fund's respective investment objective.[41]

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. If the investment adviser to the investment company issuing Managed Portfolio Shares is affiliated with a broker-dealer, such investment adviser to the investment company shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. The Adviser is not a registered broker-dealer, but is affiliated with multiple broker-dealers and has implemented ''fire walls'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's portfolio. The Exchange may obtain information regarding trading in the Shares and the underlying equity securities via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[42]

The Exchange, after consulting with various market makers that trade ETFs (and other products) on various exchanges, believes that market makers will be able to make efficient and liquid markets priced near the IIV even without daily disclosure of a fund's underlying portfolio as long as an accurate IIV is disseminated every 15 seconds, each fund's means of achieving its investment objective is clearly disclosed based on publicly available information, and there is typically an ability to manage inventory of Shares through creations and redemptions each day. The Exchange believes that market makers will employ risk-management techniques such as ''statistical arbitrage'', which is currently used throughout the financial services industry, to make efficient markets in exchange traded products as well as corporate issues. This ability should permit market makers to make efficient markets in an issue of Managed Portfolio Shares without knowledge of a fund's underlying portfolio. The Exchange believes that the real-time dissemination of a fund's IIV, together with the knowledge of a fund's means of achieving its investment objective and the right of Authorized Participants to create and redeem shares of each fund daily at the NAV, will be sufficient for market participants to value and trade shares in a manner that will not lead to significant deviations between the shares' Bid/Ask Price and NAV.

The Exchange understands that traders use statistical analysis to derive correlations between different sets of instruments to identify opportunities to buy or sell one set of instruments when it is mispriced relative to the others. For Managed Portfolio Shares, market makers will initially use the knowledge of a fund's means of achieving its investment objective, as described in the proposed applicable fund registration statement, to construct a hedging proxy for a fund to assist them in managing their risk in connection with trading the shares of a fund. Market makers will then conduct statistical arbitrage between their hedging proxy (for example, the Russell 1000 Index) and the shares of a fund, buying and selling one against the other over the course of the trading day. Market makers will then be able to evaluate how their proxy performed in comparison to the price of the shares of a fund, and use that analysis as well as knowledge of risk metrics, such as volatility and turnover, to enhance their proxy calculation to make it a more efficient hedge.

Market makers have indicated to the Exchange that, after the first several days of trading, there will be sufficient data to run a statistical analysis which will lead to spreads being tightened substantially around the IIV. This is similar to certain other existing exchange traded products (for example, ETFs that invest in foreign securities that do not trade during U.S. trading hours), in which spreads may be generally wider in the early days of trading and then narrow as market makers gain more confidence in their real-time hedges.

The market makers also indicated that, as with some other new exchange traded products with full disclosure, spreads may be generally wider in the early days of trading and would tend to narrow as market makers gain more confidence in the accuracy of their hedges and their ability to adjust these hedges in real-time relative to the published IIV and gain an understanding of the applicable market risk metrics such as volatility and turnover, and as natural buyers and sellers enter the market. Other relevant factors cited by market makers were that a fund's investment objectives are clearly disclosed in the applicable prospectus, and the existence of quarterly portfolio disclosure.

The Commission's concept release regarding ''Actively Managed Exchange-Traded Funds'' highlighted several issues that could impact the Commission's willingness to authorize the operation of an actively-managed ETF, including whether effective arbitrage of the ETF shares exists.[43] The Concept Release identifies the transparency of a fund's portfolio and the liquidity of the securities in a fund's portfolio as central to effective arbitrage. However, certain existing ETFs with portfolios of foreign securities have shown their ability to trade efficiently in the secondary market at approximately their NAV even though they do not provide opportunities for riskless arbitrage transactions during much of the trading day.[44] Such ETFs have been shown to have pricing characteristics very similar to ETFs that can be arbitraged in this manner. For example, index-based ETFs containing securities that trade during different trading hours than the ETF, such as ETFs that hold Asian stocks, have demonstrated efficient pricing characteristics notwithstanding the inability of market professionals to engage in ''riskless arbitrage'' with respect to the underlying portfolio for most, or even all, of the U.S. trading day when Asian markets are closed. Pricing for shares of such ETFs is efficient because market professionals are still able to hedge their positions with offsetting, correlated positions in derivative instruments during the entire trading day.

The Exchange believes that the real-time dissemination of a fund's IIV, disclosure of a fund's investment objective and principal investment strategies in its prospectus and SAI, together with the right of Authorized Participants to create and redeem each day at the NAV, will be sufficient for market participants to value and trade

[41] *See* note 18, *supra*.

[42] *See* note 31, *supra*.

[43] *See* Investment Company Act Release No. 25258 (November 8, 2001) (the ''Concept Release'').

[44] The Exchange represents that the mechanics of arbitrage and hedging differ. Prior Rule 10a–1 and Regulation T under the Act both describe arbitrage as either buying and selling the same security in two different markets or buying and selling two different securities, one of which is convertible into the other. This is also known as a ''riskless arbitrage'' transaction in that the transaction is risk free since it generally consists of buying an asset at one price and simultaneously selling that same asset at a higher price, thereby generating a profit on the difference. Hedging, on the other hand, involves managing risk by purchasing or selling a security or instrument that will track or offset the value of another security or instrument. Arbitrage and hedging are both used to manage risk; however, they involve different trading strategies.

shares in a manner that will not lead to significant deviations between the shares' Bid/Ask Price and NAV. In addition, with respect to Shares of the Funds, the Small Allotment Redemption Option will permit Beneficial Owners holding amounts smaller than a Redemption Unit to redeem at NAV in the event that for 10 consecutive Business Days the Bid/Ask Price has a discount of 5% or greater from the NAV for at least 15 calendar days, which will permit Beneficial Owners holding amounts smaller than a Redemption Unit to redeem at NAV in the event that trading on the secondary market is consistently resulting in a negative variance between the NAV of a Fund's Shares and the secondary market price of Shares at the Valuation Time.

The pricing efficiency with respect to trading a series of Managed Portfolio Shares will not generally rest on the ability of market participants to arbitrage between the shares and a fund's portfolio, but rather on the ability of market participants to assess a fund's underlying value accurately enough throughout the trading day in order to hedge positions in shares effectively. Professional traders will buy shares that they perceive to be trading at a price less than that which will be available at a subsequent time, and sell shares they perceive to be trading at a price higher than that which will be available at a subsequent time. It is expected that, as part of their normal day-to-day trading activity, market makers assigned to shares by the Exchange, off-exchange market makers, firms that specialize in electronic trading, hedge funds and other professionals specializing in short-term, non-fundamental trading strategies will assume the risk of being ''long'' or ''short'' shares through such trading and will hedge such risk wholly or partly by simultaneously taking positions in correlated assets [45] or by netting the exposure against other, offsetting trading positions—much as such firms do with existing ETFs and other single stock equities. Disclosure of a fund's investment objective and principal investment strategies in its prospectus and SAI, along with the dissemination of the IIV every 15 seconds, should permit professional investors to engage easily in this type of hedging activity.[46]

With respect to trading of Shares of the Funds, the ability of market participants to buy and sell Shares at prices near the IIV is dependent upon their assessment that the IIV is a reliable, indicative real-time value for a Fund's underlying holdings. Market participants are expected to accept the IIV as a reliable, indicative real-time value because (1) the IIV will be calculated and disseminated based on a Fund's actual portfolio holdings (rather than a proxy portfolio), (2) the securities in which the Funds plan to invest are generally highly liquid and actively traded and therefore generally have accurate real time pricing available, and (3) market participants will have a daily opportunity to evaluate whether the IIV at or near the close of trading is indeed predictive of the actual NAV. Because there is less risk of variability between the current IIV and the NAV nearer to the Valuation Time, it is expected that the bid/ask spread for Shares will initially tend to be less as the market approaches the close and market participants have a very high degree of certainty that they can trade at a level that reflects the current value of a Fund's holdings. It is also expected, however, that market participants will quickly be able to determine, after gaining experience with how various market factors (*e.g.,* general market movements, sensitivity or correlations of the IIV to intraday movements in interest rates or commodity prices, other benchmarks, etc.) affect IIV, how best to hedge long or short positions taken in Shares in a manner that will permit them to provide a Bid/Ask Price for Shares that is near to the IIV throughout the day. The ability of market participants to accurately hedge their positions should serve to minimize any divergence between the secondary market price of the Shares and the IIV, as well as create liquidity in the Shares.

The Exchange believes that the real-time dissemination of a Fund's IIV, disclosure of a fund's investment objective and principal investment strategies in its prospectus and SAI together with the ability of Authorized Participants to create and redeem each day at the NAV, will be enough information for market participants to value and trade Shares in a manner that will not lead to significant deviations between the Shares' Bid/Ask Price and NAV. In addition, the Small Allotment Redemption Option will permit Beneficial Owners holding amounts smaller than a Redemption Unit to redeem at NAV for a period of time following circumstances in which the secondary market price for the Shares at the Valuation Time has deviated from NAV within the specified parameters described above.

In a typical index-based ETF, it is necessary for Authorized Participants to know what securities must be delivered in a creation or will be received in a redemption. For Managed Portfolio Shares, however, Authorized Participants do not need to know the securities comprising the portfolio of a Fund since creations are for cash and redemptions are handled through the blind trust mechanism. The use of cash for creations, and in-kind redemption through a blind trust, will preserve the integrity of the active investment strategy and eliminate the potential for ''free riding'', while still providing investors with the advantages of the ETF structure.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and will be made available to all market participants at the same time. Investors can also obtain a fund's SAI, shareholder reports, and its Form N–CSR and Form N–SAR. A fund's SAI and shareholder reports will be available free upon request from the

[45] Price correlation trading is used throughout the financial industry. It is used to discover both trading opportunities to be exploited, such as currency pairs and statistical arbitrage, as well as for risk mitigation such as dispersion trading and beta hedging. These correlations are a function of differentials, over time, between one or multiple securities pricing. Once the nature of these price deviations have been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. Once a suitable hedging basket has been identified, a trader can minimize portfolio risk by executing the hedging basket. The trader then can monitor the performance of this hedge throughout the trade period, making corrections where warranted.

[46] With respect to trading in Shares of the Funds, market participants manage risk in a variety of ways. It is expected that market participants will be able to determine how to trade Shares at levels approximating the IIV without taking undue risk by gaining experience with how various market factors (*e.g.,* general market movements, sensitivity of the IIV to intraday movements in interest rates or commodity prices, etc.) affect IIV, and by finding hedges for their long or short positions in Shares using instruments correlated with such factors. The Adviser expects that market participants will initially determine the IIV's correlation to a major large capitalization equity benchmark with active derivative contracts, such as the Russell 1000 Index, and the degree of sensitivity of the IIV to changes in that benchmark. For example, using hypothetical numbers for illustrative purposes, market participants should be able to determine quickly that price movements in the Russell 1000 Index predict movements in a Fund's IIV 95% of the time (an acceptably high correlation) but that the IIV generally moves approximately half as much as the Russell 1000 Index with each price movement. The Exchange believes that this information is sufficient for market participants to construct a reasonable hedge—buy or sell an amount of futures, swaps or ETFs that track the Russell 1000 equal to half the opposite exposure taken with respect to Shares. Market participants will also continuously compare the intraday performance of their hedge to a Fund's IIV. If the intraday performance of the hedge is correlated with the IIV to the expected degree, market participants will feel comfortable they are appropriately hedged and can rely on the IIV as appropriately indicative of a Fund's performance.

applicable fund, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site. In addition, a large amount of information is publicly available regarding the Funds and the Shares, thereby promoting market transparency. Moreover, the IIV will be disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. Pricing information will be available on the Fund's Web site including: (1) The prior business day's reported NAV, the Bid/Ask Price, daily trading volume, and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Additionally, information regarding market price and trading of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available on the facilities of the CTA. The Web site for the Funds will include a form of the prospectus for the Funds and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Funds will be halted under the conditions specified in BATS Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Finally, trading in the Shares will be subject to BATS Rule 14.11(k)(4)(B)(iii), which sets forth circumstances under which Shares of the Funds may be halted.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG, from other exchanges that are members of ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding IIV and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange believes the proposed rule change would permit listing and trading of another type of actively managed ETF that has characteristics different from existing actively-managed and index ETFs, and would introduce additional competition among various ETF products to the benefit of investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BATS–2014–018 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BATS–2014–018. 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 changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2014–018 and should be submitted on or before September 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19096 Filed 8–12–14; 8:45 am]

BILLING CODE 8011–01–P

[47] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72791; File No. SR–NYSEArca–2014–63]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Withdrawal of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule Relating to Lead Market Maker Rights Fees

August 7, 2014.

On May 23, 2014, NYSE Arca, Inc. (''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the

Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder [2] to amend the NYSE Arca Options Fee Schedule relating to lead market maker rights fees. The proposed rule change was published for comment in the **Federal Register** on June 10, 2014.[3] On July 18, 2014, the Commission suspended and instituted proceedings to determine whether to approve or disapprove the proposed rule change.[4] The Commission received no comment letters regarding the proposal. On August 5, 2014, NYSE Arca withdrew the proposed rule change (SR–NYSEArca–2014–63).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19099 Filed 8–12–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72312 (June 4, 2014), 79 FR 33247 (June 10, 2014).

[4] *See* Securities Exchange Act Release No. 72642 (July 18, 2014), 79 FR 43106 (July 24, 2014).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72789; File No. SR–NYSEArca–2014–84]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule Relating to Lead Market Maker Rights Fees

August 7, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 1, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') relating to Lead Market Maker (''LMM'') Rights Fees. The Exchange proposes to implement the fee change effective August 1, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to reduce the Lead Market Maker Rights Fees for all Lead Market Makers (''LMMs'') that transact a significant daily volume.

Currently, LMMs pay a Lead Market Maker Rights Fee (''LMM Rights Fee'') on each issue in their allocation, ranging from $45 per month to $1,500 per month, depending on the activity level in the issue. The monthly LMM Rights Fee is based on the Average National Daily Customer Contracts. The applicable LMM Rights Fee is directly related to the number of allocations in an LMM's appointment; the more allocations in an appointment, the higher the LMM Rights Fee. This is particularly the case for issues that have higher Average National Daily Customer Contracts, which have higher LMM Rights Fees associated with them. Because of the LMM Rights Fees, LMMs that transact a significant amount of business on the Exchange have been reluctant to take on additional allocations. At the present time, there are approximately 2,600 different underlying issues listed on NYSE Arca Options. The Exchange regularly receives five to 10 requests to list new issues each week. The Exchange then surveys the LMM community to invite applications for allocation. At present, most surveys only receive one or two responses per issue, and a key factor in applying for allocation is the profitability of trading in an issue given the anticipated Rights Fee.

In order to generate more LMM interest in applying for new issue allocations, the Exchange is implementing a volume-based metric that will apply to all LMMs on the Exchange. Any LMM that meets certain volume criteria will be eligible for a reduced LMM Rights Fee.

Specifically, the Exchange is proposing that LMMs with daily contract volume traded electronically of at least 50,000 contracts, of which 10,000 such contracts are in its LMM appointment, will qualify for a reduced LMM Rights Fee. LMMs that qualify will be charged a 50% reduction in total LMM Rights Fees. As proposed, whether an LMM will be charged 50% of the LMM Rights Fee will be determined based on an average of the daily contract volume traded electronically each trading day by that LMM in a calendar month.

The Exchange believes that providing a means for LMMs that achieve certain volume levels to be eligible for a reduced monthly LMM Rights Fees will encourage LMMs that already transact a significant amount of business on the Exchange, but may be reluctant to apply for additional allocations, to apply for additional allocations. NYSE Arca proposes that the volume be in overall electronic Market Maker volume with a static, specified subset of that contract volume (*i.e.,* 10,000 contracts) from names in the LMM appointment, which the Exchange believes will enable LMMs that have a smaller number of issues in their appointment or have a preponderance of low volume issues to achieve this rate modification along with their larger LMM counterparts.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[5] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed modification to LMM Rights Fees is reasonable, equitable and not unfairly discriminatory because by reducing the overhead costs of LMMs that transact a significant amount of business on the Exchange, the Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

would create an incentive for LMMs that meet certain volume standards to apply for additional allocations. Because of the overhead costs associated with the LMM Rights Fees, LMMs that meet the proposed volume standards have expressed that they are unwilling to apply for additional appointments in new issues. The Exchange believes that the proposed fee change would promote a fair and orderly market and protect investors and the public interest because it would encourage LMMs that engage in significant trading on the Exchange to apply for additional appointments, thus assuring the availability of an LMM for all new appointments. The Exchange believes it is also reasonable, equitable and not unfairly discriminatory to provide a reduced fee to LMMs because the reduced overhead costs will enhance the ability to provide liquidity, which will benefit all market participants.

In addition, the Exchange believes that the proposed rate is reasonable, equitable and not unfairly discriminatory because it will recognize those LMMs that meet their obligation to provide liquidity, as evidenced by achieving a significant yet reasonable electronic transaction volume. The Exchange believes that the requisite volume level (*i.e.,* 50,000 contracts) to qualify for the reduced fee is reasonable, equitable and not unfairly discriminatory because it is lower than the current average volume traded by LMMs, and therefore it is a standard well within reach of the preponderance of LMMs, regardless of whether they have a physical presence on the Floor. In addition, the static, specific portion to be executed in the LMM's appointment (*i.e.,* 10,000 contracts) is moderately above the average traded by LMMs in their appointment. The Exchange therefore believes that the static portion of the volume requirement is reasonably tailored to encourage LMMs to actively engage in their LMM appointments in order to qualify for the proposed LMM Right Fees change. The Exchange further believes that this requirement is reasonable, equitable and not unfairly discriminatory because it only requires a moderate proportion of the volume requirement in the LMM appointment, which encourages LMMs with fewer names or with a preponderance of low volume names in their appointments, to be eligible for the proposed fee change. Further, the proposed reduced rate is reasonable, equitable and not unfairly discriminatory among LMMs because it is based on an achievable volume level (*i.e.,* 50,000 contracts is below the average volume traded by LMMs) with a meaningful volume—10,000 contracts—in the LMM appointment, which allows the LMM to apply the breath of its market making business so that the mix of issues in an LMM's appointment does not become a barrier to achievement. In addition, because the proposed fee change would be based only on prospective electronic volume executed on the Exchange, and therefore all LMMs could attain the volume threshold, the Exchange believes the fee is reasonable, equitable and not unfairly discriminatory.

The proposed fee is also reasonable, equitable and not unfairly discriminatory because the Exchange believes it may indirectly benefit non-LMM market participants. Specifically, while the LMM Rights Fee is charged only to LMMs and therefore arguably has no direct impact on non-LMMs, the Exchange notes that, absent this proposal, LMMs seeking to avoid large monthly Rights Fees could either decline to apply for new option allocations and/or choose to relinquish their LMM role in any number of option issues. The Exchange believes that having LMMs resign from acting as a LMM in an option issue to reduce the amount of the LMM Rights Fee they incur would be detrimental to the Exchange and its participants. Because LMMs have heightened quoting obligations as compared to Market Makers,[6] LMMs that may choose to relinquish issues to reduce their LMM Rights Fees, would result in reduced displayed liquidity in those issues, thereby harming investors and the public. Thus, the Exchange believes the proposal is reasonable, equitable and not unfairly discriminatory to non-LMMs and, in fact, may benefit other market participants.

The Exchange notes that the notion of a volume-based metric is not new or novel in the context of a monthly fee, such as the LMM Rights Fee. For example, on NYSE MKT LLC, a Floor Market Maker may qualify for a ''reduced'' options trading permit (''ATP'') fee, which is calculated on a monthly basis, if, among other things, the Market Maker transacts most of its volume in open outcry.[7] Thus, the proposed reduced monthly LMM Rights Fee is reasonable, equitable and not unfairly discriminatory as other options exchanges impose similar rate structures.

The timing of the calculation of the LMM Rights Fee is reasonable as it is calculated on the issues in an LMM's appointment on the last trading day of the month, which gives all LMMs a fixed date to anticipate what the fees will be and time to meet the volume standards for the proposed fee.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rate reduces the burden on competition because it will enhance the ability for LMMs to quote competitively in more issues. The Exchange believes the reduced rate will reduce the burden on competition among LMMs as the reduced overhead costs will enhance the ability of firms to provide liquidity, which will benefit all market participants. The Exchange also believes that the proposed fee reduction will have a positive impact on competition and may indirectly benefit non-LMM market participants. Specifically, while the LMM Rights Fee is charged only to LMMs and therefore arguably has no direct impact on non-LMMs, the Exchange notes that absent this proposal LMMs seeking to avoid large monthly Rights Fees could decline to apply for new option allocations and/or choose to relinquish their LMM role in any number of option issues. The Exchange believes that having LMMs resign from acting as a LMM in an option issue to reduce the amount of the LMM Rights Fee they incur would be detrimental to the Exchange and its participants. Because LMMs have heightened quoting

[6] *See* Rule 6.37B(b) and (c) (requiring that LMMs provide ''continuous two-sided quotations throughout the trading day in its appointed issues for 90% of the time the Exchange is open for trading in each issue'' while requiring that Marker Makers provide ''continuous two-sided quotations throughout the trading day in its appointed issues for 60% of the time the Exchange is open for trading in each issue'').

[7] *See* NYSE Amex Options Fee Schedule, dated August 1, 2014, available here: *https://www.theice.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf* (providing that ''[a] Floor Market Maker that purchases no more than two ATPs per month may purchase them for $5,000 each ('Floor Market Maker ATP Fee') if the Floor Market Maker transacts at least 75% of its volume, excluding Qualified Contingent Cross and Strategy Executions, manually, by public outcry.'')

[8] 15 U.S.C. 78f(b)(8).

obligations as compared to Market Makers,[9] LMMs that may choose to relinquish issues to reduce their LMM Rights Fees, would result in reduced displayed liquidity in those issues, thereby harming investors and the public. In this regard, the Exchange believes the proposal does have a meaningful positive impact on competition.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues, and providing a reduced LMM Rights Fees will allow LMMs to both expand the number of issues allocated to them and to reduce the overhead which in turn encourages liquidity to compete for business. The Exchange believes that basing the qualification for the LMM Rights Fee on electronic transaction volume will encourage competition that is in furtherance of the Act by attracting business with enhanced liquidity and reduced market spread.

In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[10] of the Act and subparagraph (f)(2) of Rule 19b–4[11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–84 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–NYSEArca–2014–84. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2014–84, and should be submitted on or before September 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19097 Filed 8–12–14; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* supra n. 6.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72785; File No. SR–MIAX–2014–42]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

August 7, 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 July 29, 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 the MIAX Options Fee Schedule.

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to provide that certain orders of affiliates of Members will be included in calculating the Monthly Firm Fee Cap. The Exchange recently adopted the Monthly Firm Fee Cap that caps transaction fees for the month at $60,000 for orders that are entered and executed for an account identified by an Electronic Exchange Member for clearing in the OCC ''Firm'' range.[3] The Monthly Firm Fee Cap is based on the similar fees of another competing options exchange.[4]

The current transaction fees for Firms on the Exchange are $0.25 transaction fee for executions in standard option contracts and $0.025 transaction fee for Mini Option contracts. Pursuant to the Monthly Firm Fee Cap, in a single billing month the total amount of transaction fees for Firms are capped and thus do not exceed $60,000. Members must notify the Exchange in writing of all accounts in which the Member is not trading in its own proprietary account. The Exchange does not make adjustments to billing invoices where transactions are commingled in accounts which are not subject to the Monthly Firm Fee Cap. Mini Option contracts are not eligible for inclusion in the Monthly Firm Fee Cap. Firm transactions in Mini Options, however, continue to be executed at the rate of $0.025 per contract.

The Exchange proposes to amend the Monthly Firm Fee Cap to allow the aggregation of trading activity of separate Members or its affiliates for purposes of the Monthly Firm Fee Cap if there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A.[5] Members must notify the Exchange in writing of the account(s) designated for purposes of trading in their proprietary account. The Member would be required to inform the Exchange immediately of any event that causes an entity to cease to be an affiliate. In addition, Member must notify the Exchange in writing of the account(s) designated for purposes of proprietary trading of Member or its affiliates. The Member would be required to segregate unaffiliated firm orders from that of its affiliates in order for the qualifying affiliated firm orders to be eligible for the Monthly Firm Fee Cap. The Exchange will not make adjustments to billing invoices where transactions are commingled in accounts which are not subject to the Monthly Firm Fee Cap. The Exchange believes that this practice would not create an undue burden on its Members and would ensure a more efficient billing process.

The proposed change to the Monthly Firm Fee Cap is intended to create an additional incentive for Firms to send order flow to the Exchange. The Exchange believes that the proposal would increase both intermarket and intramarket competition by incenting Firms on other exchanges to direct additional orders to the Exchange to allow the Exchange to compete more effectively with other options exchanges for such transactions.

The Exchange proposes to implement the new transaction fees beginning August 1, 2014.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(4) of the Act[7] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposal is fair, equitable and not unreasonably discriminatory. The Exchange believes the proposed rule change is reasonable because it would allow aggregation of the trading activity of separate Members or its affiliates for purposes of the Monthly Firm Fee Cap only in very narrow circumstances, namely, where the firm is an affiliate, as defined herein. Furthermore, other exchanges, as well as MIAX, have rules that permit the aggregation of the trading activity of affiliated entities for the purposes of calculating and assessing certain fees. The Exchange believes that it is reasonable to require Members to segregate these transactions in a separate account to create an effective way to account and bill for these transactions. The Exchange believes that its proposal is equitable and not unfairly discriminatory because any Member may request that the Exchange aggregate its trading activity with the trading activity of an affiliated firm for purposes of calculating the Monthly Firm Fee Cap. The Exchange believes that it is equitable and not unfairly discriminatory to require Members to segregate these transactions in a separate account as this requirement would apply to all member organizations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposal is similar to the transaction fees found on other options exchanges; therefore, the Exchange believes the proposal is consistent with robust competition by increasing the intermarket competition for order flow from Firms. To the extent that there is additional competitive burden on non-Firm Members, the Exchange believes that this is appropriate because the proposal should incent Members to direct additional order flow to the Exchange and thus provide additional liquidity that enhances the quality of its markets and increases the volume of contracts traded here. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee

[3] *See* Securities Exchange Act Release No. 72583 (July 10, 2014), 79 FR 41612 (July 16, 2014) (SR–MIAX–2014–37).

[4] *See* NASDAQ OMX PHLX LLC Pricing Schedule, Section II. *See also* Securities Exchange Act Release Nos. 59393 (February 11, 2009), 74 FR 7721 (February 19, 2009) (SR–PHLX–2009–12); 65888 (December 5, 2011), 76 FR 77046 (December 9, 2011) (SR–PHLX–2011–160). *See also* NYSE Amex Options Fee Schedule, p. 17. In contrast to PHLX and NYSE MKT, the Exchange does not exclude all dividend, merger, and short stock interest strategy executions from the Monthly Firm Fee Cap. In addition, in contrast to PHLX, the Exchange does not apply the Monthly Firm Fee Cap to proprietary orders effected for the purpose of hedging the proprietary over-the-counter trading of an affiliate of a Member that qualifies for the Monthly Firm Fee Cap. Further, in contrast to PHLX and NYSE MKT which apply to floor and manual transactions respectively, since the Exchange is a fully electronic exchange and thus does not have a trading floor or manual trading, the Monthly Firm Fee Cap applies to electronic Firm transactions.

[5] A Member's total amount of transaction fees in an account that clear in the Firm range would be determined at the firm affiliated level. *E.g.,* if five EEM individuals are affiliated with member firm ABC as reflected by Exchange records for the entire month, all the volume from those five individual EEMs will count towards firm ABC's Monthly Firm Fee Cap for that month. The Exchange and CBOE both aggregate volume of market maker firms with at least 75% common ownership between the firms. *See* Securities Exchange Act Release Nos. 72565 (July 8, 2014), 79 FR 40807 (July 14, 2014)(SR–MIAX–2014–31); 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR–CBOE–2006–111). *See also* CBOE Fees Schedule, p. 3.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposal reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[8] 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–2014–42 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–2014–42. 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–2014–42 and should be submitted on or before September 3, 2014].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19094 Filed 8–12–14; 8:45 am]

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[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72784; File No. SR–Phlx–2014–45]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Membership Fees

August 7, 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 August 1, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Pricing Schedule at Section VI entitled ''Membership Fees'' to amend Permit Fees.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 purpose of this filing is to amend the Permit Fees in Section VI of the Pricing Schedule in order that the Exchange can allocate costs to various options market participants which are incurred by the Exchange.

Today, the Exchange assesses members and member organizations transacting business on the Exchange a monthly Permit Fee of $2,150. The Exchange assesses members and member organizations not transacting business on the Exchange a monthly Permit Fee of $7,500. PSX only members[3] and member organizations are not assessed a Permit Fee.[4] Today, options members or member organizations pay an additional Permit

[3] PSX only members are not engaged in an options business at Phlx in a particular month.

[4] Today, applicants that apply for membership solely to participate in the NASDAQ OMX PSX equities market are not assessed a Permit Fee, Application Fee, Initiation Fee, or Account Fee. Should such approved member or member organization subsequently elect to engage in business on Phlx XL II, the Exchange's options platform, the monthly Permit Fee, Initiation Fee and Account Fee will apply. *See* note 14 in the Pricing Schedule.

Fee for each sponsored options participant.

The Exchange proposes to eliminate the current Permit Fees for members and member organizations transacting and not transacting a business and instead assess options Permit Fees by market participant. The Exchange proposes to assess a monthly Permit Fee of $2,150 to Floor Brokers,[5] Specialists [6] and Market Makers,[7] effectively assessing these market participants the same rate of $2,150 a month for a permit. All other market participants (Professionals, Firms and Broker-Dealers, collectively ''Other Market Participants'') will be assessed a Permit Fee of $4,000 in a given month, unless the member or member organization or member organizations under Common Ownership,[8] executes at least 100 options in a Phlx house account that is assigned to one of the member organizations in a given month, in which case the Permit Fee will be $2,150 for that month. Option members and member organizations will continue to pay an additional Permit Fee for each sponsored options participant, which fee will be the Permit Fee that is assessed to the member or member organization sponsoring the options participant, either $2,150 or $4,000.[9] The Exchange believes that 100 options in a given month is a reasonable level given the volume of options transacted on Phlx.

Permit Fees for PSX only members and member organizations would be $4,000 unless the member or member organization averages at least 1,000 shares executed per day in a given month, in which case the Permit Fee will be $0.00 in a given month. This volume will be calculated by averaging the shares over a one month period. The Exchange believes 1,000 shares per day in a given month is a reasonable level given the lower volume of business transacted on PSX as compared to other mature equities markets such as The NASDAQ Stock Market LLC.

Finally, the Exchange proposes to eliminate various notes in the Pricing Schedule. The Exchange proposes to eliminate note 15 in the Pricing Schedule which states that, ''[a] member or member organization will be assessed the $2,150 monthly Permit Fee if that member or member organization: (1) Transacts its option orders in its assigned Phlx house account in a particular month; or (2) is a clearing member of The Options Clearing Corporation or a Floor Broker; or (3) for those member organizations which are under Common Ownership, transacts at least one options trade in a Phlx house account that is assigned to one of the member organizations under Common Ownership.'' This note, which describes the qualifications for transacting business on Phlx, is therefore no longer necessary. The Exchange is also eliminating note 17 in the Pricing Schedule which states that, ''a member or member organization will be assessed a $7,500 monthly fee if that member is (i) not a PSX Only Participant; or (ii) not engaged in an options business at Phlx in a particular month.'' This note is no longer necessary as this fee would be eliminated. The Exchange is amending note 14 in the Pricing Schedule to remove references to the Permit Fee as the Exchange proposes to assess certain PSX only members a Permit Fee.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act [10] in general, and furthers the objectives of Section 6(b)(4) and (b)(5) of the Act [11] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Phlx operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to amend options Permit Fees to assess the fee by market participant is reasonable because the Exchange is seeking to recoup costs that are incurred by the Exchange. The Exchange believes it is reasonable to assess different market participants different Permit Fees because each market participant has a different business model and, as a result, pays various other different fees to the Exchange to maintain their business. Certain market participants such as Floor Brokers, Specialists and Market Makers pay other types of fees. For example, a Floor Broker requires space on the Exchange's trading floor, and infrastructure to support floor trading.[12] A Specialist and Market Maker similarly incur costs for certain data feeds, remote specialist fees, RSQT Fees and SQF Port Fees amongst other charges.[13] Taking into account the overall costs incurred by Floor Brokers, Specialists and Market Makers to simply access and conduct their business on the Exchange, it is reasonable to assess these market participants a Permit Fee of $2,150 per month as compared to Other Market Participants. The Exchange believes that it is reasonable to assess Other Market Participants a higher Permit Fee of $4,000 in a given month unless they transact a certain volume on the Exchange because these market participants do not incur the higher costs to conduct their business as do Floor Brokers, Specialists and Market Makers. The Exchange also believes that it is reasonable to provide Other Market Participants an opportunity to lower Permit Fees from $4,000 to the effective rate they pay today of $2,150 if they transact a certain volume on Phlx in a given month because the Exchange believes this volume brings revenue to the Exchange, which in turn benefits other market participants because they are able to interact with that volume. The Exchange offers that the 100 options threshold in a given month is an achievable hurdle for a majority of options participants on Phlx today. A majority of Other Market Participants are capable of meeting this threshold. Finally, assessing different Permit Fee rates to different types of market participants is not novel.[14]

The Exchange's proposal to amend options Permit Fees to assess the fee by market participant is equitable and not unfairly discriminatory for the reasons which follow. The Exchange believes that continuing to assess Floor Brokers,

[5] A Floor Broker is defined in Phlx Rule 1060 as ''[a]n individual who is registered with the Exchange for the purpose, while on the Options Floor, of accepting and executing options orders received from members and member organizations.''

[6] A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[7] A ''market maker'' includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (*see* Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (*see* Rule 1014(b)(ii)(B)). Directed Participants are also market makers.

[8] The term ''Common Ownership'' shall mean members or member organizations under 75% common ownership or control. *See* Preface to Exchange's Pricing Schedule.

[9] The Exchange is amending note 16 in the Pricing Schedule to add clarity to the pricing for sponsored participants. *See* Exchange Rule 1094 titled Sponsored Participants. A Sponsored Participant may obtain authorized access to the Exchange only if such access is authorized in advance by one or more Sponsoring Member Organizations. Sponsored Participants must enter into and maintain participant agreements with one or more Sponsoring Member Organizations establishing a proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Exchange.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4), (5).

[12] Floor Brokers are subject to a Floor Facility Fee in Section VII of the Pricing Schedule.

[13] *See* Section VI of the Pricing Schedule.

[14] The Chicago Board Options Exchange, Incorporated (''CBOE''), the International Securities Exchange, LLC (''ISE'') and Miami International Securities Exchange LLC (''MIAX'') assess different Trading Permit Fees to different market participants. *See* CBOE's Fees Schedule, ISE's Fee Schedule and MIAX's Fee Schedule.

Specialists and Market Participants effectively the same rate of $2,150 for a Permit Fee recognizes the overall total fee structure of these market participants on Phlx. As mentioned herein, Floor Brokers, Specialists and Market Makers incur fees which are not borne by other market participants.[15] The Exchange believes that the proposed fee structure recognizes the costs that are incurred by these market participants in determining the Permit Fee for Floor Brokers, Specialists and Market Makers. The Exchange believes Floor Brokers, Specialists and Market Makers serve an important function on the Exchange and already pay a significant portion of the non-transaction fees assessed by the Exchange today. Specialists and Market Makers serve an important role on the Exchange with regard to order interaction and they provide liquidity in the marketplace. Floor Brokers are registered with the Exchange for the purpose, while on the options floor, of accepting and executing options orders received from members and member organizations.[16] These market participants incur greater costs as compared to Professionals, Firms and Broker-Dealers because the type of business they conduct requires them to incur more cost to access the Exchange as compared to other market participants. Other Market Participants (Professionals, Firms and Broker-Dealers) do not incur the same fees as Floor Brokers, Specialists and Market Makers and therefore, in order to allocate fees, the Exchange proposes to assess these market participants an increased fee of $4,000, unless they are able to transact at least 100 options in a given month. The Exchange believes that assessing Other Market Participants the higher fee of $4,000 and offering the opportunity to lower the Permit Fee by executing a certain amount of volume is equitable and not unfairly discriminatory because they do not pay higher costs and the Exchange believes that transacting volume on Phlx brings liquidity to the Exchange, which in turn benefits other market participants. The Exchange believes that Other Market Participant members, member organizations and those under Common Ownership that add liquidity to the market place also bring revenue to the Exchange by incurring transaction fees. The Exchange believes it is equitable and not unfairly discriminatory to continue to assess effectively the same Permit Fee as today of $2,150 to these Other Market Participants, equivalent to Floor Brokers, Specialists and Market Makers, in any given month in which they achieve the requisite volume because of the liquidity and revenue they bring to Phlx. The opportunity to lower Permit Fees affords Other Market Participants the opportunity to lower their fees by offering a means to benefit the Exchange by bringing liquidity to the marketplace.

The Exchange believes that continuing to assess PSX only members no Permit Fee provided they transact an average of at least 1,000 shares executed per day in a given month is reasonable because the Exchange seeks to continue to attract market participants to the PSX market by assessing no fee. The Exchange believes 1,000 shares per day is a reasonable level given the volume of transactions which take place on PSX as compared to mature equities markets.[17] The Exchange has waived the Permit Fee [18] for several years and desires to continue to incentivize PSX only members provided these members and member organizations transact a certain volume on PSX in a given month. The Exchange's proposal to assess a $4,000 fee to PSX only members that do not transact the requisite volume in a given month is reasonable because the Exchange desires to distribute costs to operate the Exchange among its options and equities market participants.

The Exchange believes that continuing to assess PSX only members no Permit Fee provided they transact an average of at least 1,000 shares executed per day in a given month is equitable and not unfairly discriminatory because PSX is a growing market and not as robust as the options market on Phlx. PSX only members and member organizations that transact the requisite volume on PSX bring liquidity to the Exchange, which in turn benefits other market participants. The Exchange believes that assessing PSX only members that do not transact the requisite volume of business in a given month, a $4,000 monthly Permit Fee is equitable and not unfairly discriminatory because this fee properly allocates costs to PSX only members and member organizations not conducting a business on PSX, similar to options members and member organizations.

The Exchange's proposal to amend the Pricing Schedule to remove certain notes (15 and 17) which are irrelevant and amend note 14 is reasonable, equitable and not unfairly discriminatory because the Exchange believes that these amendments will clarify the Exchange's Pricing Schedule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange is maintaining options Permit Fees at the same rate for Floor Brokers, Specialists and Market Makers because these participants pay other fees to the Exchange which are not incurred by Other Market Participants and therefore their overall costs is higher to transact business on Phlx. In addition, Other Market Participants are afforded an opportunity to lower Permit Fees by transacting business on Phlx. Phlx options members and member organizations that do not transact the requisite volume of business on Phlx to achieve the lower Permit Fee of $2,150 will be assessed a higher Permit Fee of $4,000. Some of these options members and member organizations are currently being assessed the $7,500 Permit Fee today for transacting no business on Phlx, so the fee will be lower in those cases. For options members and member organizations today that transact some volume, but not the requisite volume specified for the lower fee, the Permit Fee will increase. The Exchange believes that this fee differential ($2,150 versus $4,000) does not create an undue burden on competition because: (i) The requisite volume is not unreasonable given the volume of contracts traded in a day on Phlx; (ii) the Exchange believes that a majority of options members are capable of achieving the requisite volume; and (iii) those options members and member organizations that trade the requisite volume bring revenue to the Exchange, which in turn benefits other market participants because they are able to interact with that volume.

The Exchange believes that providing PSX only members the opportunity to transact a certain amount of volume to be assessed no Permit Fee and assessing other PSX members the same $4,000 monthly Permit Fee as Other Market

[15] Floor Brokers require space on the Exchange's trading floor, and infrastructure to support floor trading. Floor Brokers are subject to a Floor Facility Fee in Section VII of the Pricing Schedule. Specialists and Market Makers similarly incur costs for certain data feeds, remote specialist fees, RSQT Fees and SQF Port Fees amongst other charges. *See* Section VI of the Pricing Schedule.

[16] *See* Exchange Rule 1060.

[17] The Exchange offers that today, the majority of PSX members transacting an equities business meet the threshold.

[18] Today, applicants that apply for membership solely to participate in the NASDAQ OMX PSX equities market are not assessed a Permit Fee, Application Fee, Initiation Fee, or Account Fee. *See* Securities Exchange Act Release No. 61863 (April 7, 2010), *75 FR 20021* (April 16, 2010) (SR–Phlx–2010–54).

Participants conducting an options business on Phlx because they do not transact the requisite volume of business does not create an undue burden on competition because the pricing is being allocated evenly among all options and equity members and member organizations that do not transact a certain level of specified volume on Phlx. As far as not assessing PSX only members and member organizations that transact the requisite volume on PSX in a given month a Permit Fee, the Exchange believes this does not create an unfair burden on competition because the Exchange seeks to encourage market participants to connect to PSX, a relatively new market, to encourage order flow and grow this market. New markets typically offer market participants incentives, such as reduced fees, to attract order flow.

The Exchange operates in a highly competitive market, comprised of twelve options exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[19] 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.

[19] 15 U.S.C. 78s(b)(3)(A)(ii).

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–Phlx–2014–45 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–Phlx–2014–45. 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–Phlx–2014–45 and should be submitted on or before September 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

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[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72786; File No. SR–Phlx–2014–53]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding the Short Term Option Series Program

August 7, 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 August 1, 2014, NASDAQ OMX PHLX LLC (''Phlx'' 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 the Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Rule 1012 (Series of Options Open for Trading) and Rule 1101A (Terms of Option Contracts) to conform Exchange rules pertaining to finer strike price intervals for standard expiration contracts in option classes that also have Short Term Options (''STOs'')[3] listed on them (''related non-STOs'', ''related non-Short Term Options'', or ''non-STOs'').

The text of the proposed rule change is available on the Exchange's Web site

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] STOs, also known as ''weekly options'' as well as ''Short Term Options'', are series in an options class that are approved for listing and trading on the Exchange in which the series are opened for trading on any Thursday or Friday that is a business day and that expire on the Friday of the next business week. If a Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Thursday or Friday, respectively. STOs are listed and traded pursuant to the STO Program. For STO Program rules regarding non-index options, *see* Rule 1000(b)(44) and Commentary .11 to Rule 1012. For STO Program rules regarding index options, *see* Rule 1000A(b)(16) and Rule 1101A(b)(vi).

at *http://nasdaqomxphlx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 purpose of this proposed rule change is to amend Rule 1012 and Rule 1101A to conform Exchange rules pertaining to finer strike price intervals for standard expiration contracts in option classes that also have STOs listed on them.

The STO Program, which was initiated in 2010,[4] is codified in Commentary .11 to Rule 1012 for non-index options including equity, currency, and exchange traded fund (''ETF'') options, and in Rule 1101A(b)(vi) for index options. Under these rules, the Exchange may list STOs in up to fifty option classes,[5] including up to thirty index option classes,[6] in addition to option classes that are selected by other securities exchanges that employ a similar program under their respective rules. For each of these option classes, the Exchange may list five STO expiration dates at any given time, not counting monthly or quarterly expirations.[7] Specifically, on any Thursday or Friday that is a business day, the Exchange may list STOs in designated option classes that expire at the close of business on each of the next five consecutive Fridays that are business days.[8] These STOs, which can be several weeks or more from expiration, may be listed in strike price intervals of $0.50, $1, or $2.50, with the finer strike price intervals being offered for lower priced securities, and for options that trade in the Exchange's dollar strike program.[9] More specifically, the Exchange may list short term options in $0.50 intervals for strike prices less than $75, or for option classes that trade in one dollar increments in the related non-short term option, $1 intervals for strike prices that are between $75 and $150, and $2.50 intervals for strike prices above $150.[10]

The Exchange recently proposed a change to the STO Program in Commentary .11(e) to Rule 1012 regarding non-index options and Rule 1101A(b)(vi)(E) regarding index options that allows related non-STO series to be opened during the month prior to expiration of such non-STO series in the same manner and strike price intervals as permitted for STOs.[11] Thus, the Prior Month Filing would allow standard monthly expiration options to trade—a month prior to expiration—in the same intervals as the weekly expiration STO. The Exchange does not propose any substantive changes, but only ensures that the language within Rule 1012 and Rule 1101A, respectively, is in conformity in respect of the interval that STOs and non-STOs may trade in during the month prior to expiration of the non-STOs.

Commentary .05(a)(vii) to Rule 1012 and Rule 1101A(a) now state that notwithstanding any other provision regarding strike prices in the respective rules, related non-STO series may be opened during the week prior to expiration of such non-STO series in the same manner and strike price intervals as permitted for STOs. This proposal conforms subsections Commentary .05(a)(vii) to Rule 1012 and Rule 1101A(a). Specifically, as proposed Commentary .05(a)(vii) to Rule 1012 and Rule 1101A(a) would state that notwithstanding any other provision regarding strike prices in this rule, non-STOs that are on a class or an index class that has been selected to participate in the STO Program (related non-STO series) shall be opened during the *month* prior to expiration of such related non-STO series in the same manner and intervals as permitted in Commentary .11 to Rule 1012 or Rule 1101A(b)(vi).[12] No other changes are proposed.

The Exchange is now permitted to list the standard monthly expiration contract options in these narrower STO intervals at any time during the month prior to expiration, which begins on the first trading day after the prior month's expiration date, subject to the provisions of Exchange rules. As discussed, this proposal simply conforms the language of Rules 1012 and 1101A to make each of the rules internally consistent.

The Exchange believes that continuing to introduce consistent strike price intervals for STOs and related non-STOs during the month prior to expiration benefits investors by giving them more flexibility to closely tailor their investment decisions. The Exchange also believes that this provides the investing public and other market participants with additional opportunities to hedge their investments, thus allowing these investors to better manage their risk exposure.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[13] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[14] because it is designed to promote just and equitable principles of trade, 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.

As noted above, standard expiration options currently trade in wider intervals than their weekly counterparts, except during the week prior to expiration. This creates a situation where contracts on the same option class that expire both several weeks before and several weeks after the standard expiration are eligible to trade in strike price intervals that the standard expiration contract is not. The Prior Month Filing allowed STOs and non-STOs to be listed and traded in the same intervals pursuant to Rule 1012 (non-index options) and Rule 1101A (index options). This proposal conforms

[4] *See* Securities Exchange Act Release No. 62296 (June 15, 2010), 75 FR 35115 (June 21, 2010) (SR–Phlx–2010–84) (notice of filing and immediate effectiveness permanently establishing STO Program on the Exchange).

[5] *See* Commentary .11(a) to Rule 1012.

[6] *See* Rule 1101A(b)(vi)(A).

[7] *See* Commentary .11 to Rule 1012; Rule 1101A(b)(vi).

[8] *Id.*

[9] *See* Commentary .11 to Rule 1012; Rule 1101A(b)(vi).

[10] *Id. See* Commentary .11(e) to Rule 1012; Rule 1101A(b)(vi)(E). The $2.50 interval does not apply to indexes. *See* Rule 1101A(b)(vi).

[11] *See* Securities Exchange Act Release No. 72504 (July 1, 2014), 79 FR 38628 (July 8, 2014) (SR–Phlx–2014–41) (notice of filing and immediate effectiveness) (the ''Prior Month Filing''). For STO strike price intervals, *see* supra note 10 and related text.

[12] *See* Commentary .05(a)(vii) to Rule 1012 and Rule 1101A(A).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

the language of each of the respective rules to reflect the monthly time period, and negates potential confusion from inconsistent language.[15]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed technical conforming rule change continues to provide additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)[16] of the Act and Rule 19b–4(f)(6)[17] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) of the Act[18] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii) of the Act,[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiver of the 30-day operative delay is in the public interest and consistent with the protection of investors because the proposed rule change is designed to harmonize its rules so that its rules are internally consistent. According to the Exchange, waiver of the 30-day operative delay would allow these changes to take effect immediately and therefore would avoid any potential investor confusion.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because waiver will clarify the exchanges rules immediately, which could prevent investor confusion with respect to the rules of the Exchange. The Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[20]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2014–53 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–Phlx–2014–53. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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–Phlx–2014–53, and should be submitted on or before September 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19095 Filed 8–12–14; 8:45 am]

BILLING CODE 8011–01–P

[15] The Exchange represents that, because of the technical conforming nature of the proposal, it will not have any impact on system capacity.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 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 the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 14084 and # 14085]

Iowa Disaster # IA–00062

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Iowa (FEMA–4187–DR), dated 08/05/2014.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 06/26/2014 through 07/07/2014.

Effective Date: 08/05/2014.

Physical Loan Application Deadline Date: 10/06/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 05/05/2015.

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 President's major disaster declaration on 08/05/2014, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Audubon, Black Hawk, Butler, Cedar, Des Moines, Grundy, Hamilton, Hardin, Ida, Iowa, Jackson, Jasper, Johnson, Jones, Keokuk, Lee, Linn, Mahaska, Muscatine, Poweshiek, Tama, Washington.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14084B and for economic injury is 14085B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008).

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2014–19117 Filed 8–12–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Advisory Committee on Veterans Business Affairs

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Open Federal Advisory Committee Meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for the next meeting of the Advisory Committee on Veterans Business Affairs. The meeting will be open to the public.

DATES: Wednesday, September 10, 2014 from 9 a.m. to 4 p.m.

ADDRESSES: U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416. ROOM: Administrator's Conference room, located on the 7th floor.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal AdvisoryCommittee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Advisory Committee on Veterans Business Affairs. The Advisory Committee on Veterans Business Affairs serves as an independent source of advice and policy recommendation to the Administrator of the U.S. Small Business Administration.

The purpose of this meeting is to finalize preparations for the 2014 Annual Report to SBA's Administrator, Associate Administrator for Veterans Business Development, Congress, and the President and to discuss current and future programs for veterans' small business owners. For information regarding our veterans' resources and partners, please visit our Web site at *www.sba.gov/vets.*

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public, however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Advisory Committee must contact Cheryl Simms, by August 28, 2014, by email in order to be placed on the agenda. Comments for the Record should be emailed prior to the meeting for inclusion in the public record, verbal presentations; however, will be limited to five minutes in the interest of time and to accommodate as many presenters as possible. Written comments should be emailed to Cheryl Simms, Program Liaison, Office of Veterans Business Development, U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416.

Additionally, if you need accommodations because of a disability or require additional information, please contact Cheryl Simms, Designated Federal Official for the Advisory Committee on Veterans Business Affairs at (202) 205–6773; or by email at *cheryl.simms@sba.gov* . For more information, please visit our Web site at *www.sba.gov/vets.*

Dated: August 6, 2014.

Diana Doukas,

SBA Committee Management Officer.

[FR Doc. 2014–19116 Filed 8–12–14; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Interagency Task Force on Veterans Small Business Development

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Open Federal Interagency Task Force Meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for its public meeting of the Interagency Task Force on Veterans Small Business Development. The meeting will be open to the public.

DATES: *Date and Time:* September 11, 2014, from 9:00 a.m. to 12:00 noon.

ADDRESSES: SBA Headquarters, 409 3rd Street SW., Washington, DC 20416, in the Administrator's Large Conference room, located on the 7th Floor.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Interagency Task Force on Veterans Small Business Development. The Task Force is established pursuant to Executive Order 13540 and focused on coordinating the efforts of Federal agencies to improve capital, business development opportunities and pre-established Federal contracting goals for small business concerns owned and controlled by veterans (VOB's) and service-disabled veterans (SDVOSB'S). Moreover, the Task Force shall coordinate administrative and regulatory activities and develop proposals relating to ''six focus areas'': (1) Access to capital (loans, surety bonding and franchising); (2) Ensure achievement of pre-established contracting goals, including mentor protégé and matching with contracting opportunities; (3) Increase the integrity of certifications of status as a small business; (4) Reducing paperwork and administrative burdens in accessing business development and entrepreneurship opportunities; (5) Increasing and improving training and counseling services; and (6) Making other improvements to support veteran's business development by the Federal government.

On November 1, 2011, the Interagency Task Force on Veterans Small Business Development submitted its first report to the President, which included 18

recommendations that were applicable to the ''six focus areas'' identified above.

The purpose of the meeting is to discuss progress on the recommendations and next steps identified by the Interagency Task Force (IATF) in the Fiscal Year (FY) 14 Annual Report. The agenda will include updates from each of the members, public comment, and planning for the FY 14 of the IATF's Annual Report. In addition, the Task Force will allow time to obtain public comment from individuals and representatives of organizations regarding the areas of focus.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Task Force must contact Cheryl Simms, by August 28, 2018 by email in order to be placed on the agenda. Comments for the record should be applicable to the ''six focus areas'' of the Task Force and emailed prior to the meeting for inclusion in the public record, verbal presentations; however, will be limited to five minutes in the interest of time and to accommodate as many presenters as possible. Written comments should be emailed to Cheryl Simms, Program Liaison, Office of Veterans Business Development, U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416, at the email address for the Task Force, *vetstaskforce@sba.gov* . Additionally, if you need accommodations because of a disability or require additional information, please contact Cheryl Simms, Designated Federal Official for the Task Force at (202) 205–6773; or by email at *cheryl.simms@sba.gov.* For more information, please visit our Web site at *www.sba.gov/vets*.

Dated: August 6, 2014.

Diana Doukas,

SBA Committee Management Officer.

[FR Doc. 2014–19118 Filed 8–12–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 8821]

In the Matter of the Review of the Designation of Asbat al-Ansar, (and other aliases), as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the 2009 decision to maintain the designation of the aforementioned organization as a Foreign Terrorist Organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation.

Therefore, I hereby determine that the designation of the aforementioned organization as a Foreign Terrorist Organization, pursuant to Section 219 of the INA (8 U.S.C. 1189), shall be maintained.

This determination shall be published in the **Federal Register**.

Dated: August 1, 2014.

John F. Kerry,

Secretary of State, Department of State.

[FR Doc. 2014–19151 Filed 8–12–14; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 8825]

Shipping Coordinating Committee; Notice of Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Tuesday, September 9, 2014, in the Alexander Hamilton Room (AHR), 9th floor, of the U.S. Coast Guard Personnel Service Center (PSC), 4200 Wilson Boulevard, Suite 1100, Arlington, VA 20598–7200. The primary purpose of the meeting is to prepare for the thirty-ninth session of the International Maritime Organization's (IMO) Facilitation Committee to be held at the IMO Headquarters, United Kingdom, September 22–26, 2014.

The agenda items to be considered include:

—Decisions of other IMO bodies
—Consideration and adoption of proposed amendments to the Convention
—General review of the Convention, including harmonization with other international instruments
—E-business possibilities for the facilitation of maritime traffic
—Formalities connected with the arrival, stay and departure of persons
—Ensuring security in and facilitating international trade
—Ship/port interface
—Guidelines on minimum training and education for mooring personnel
—Technical cooperation activities related to facilitation of maritime traffic
—Relations with other organizations
—Application of the Committee's Guidelines
—Work programme
—Election of Chairman and Vice-Chairman for 2015
—Any other business

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Mr. David Du Pont, by email at *David.A.DuPont@uscg.mil,* by phone at (202) 372–1497, by fax at (202) 372–1928, or in writing at Commandant (CG–REG), U.S. Coast Guard Stop 7418, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593–7418 not later than September 2, 2014, 7 days prior to the meeting. Requests made after September 2, 2014, might not be able to be accommodated. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the building. The USCG PSC is in the Ballston Commons Plaza located above the Ballston Common Mall in Arlington, VA. It can be reached by driving and is conveniently located next to the Ballston Metro Station.

For members of the public that would like to participate, but are unable to attend this meeting the Coast Guard will provide a teleconference option. To participate by phone, contact the meeting coordinator (details above) to obtain teleconference information. Note the number of teleconference lines is limited and will be available on a first-come, first-served basis.

Additional information regarding this and other IMO SHC public meetings may be found at: *www.uscg.mil/imo.* Information specific to the Facilitation Committee may be found at *www.uscg.mil/imo/fal* and *www.uscg.mil/hq/cg5/cg523/imo.asp.*

Dated: August 4, 2014.

Marc Zlomek,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 2014–19154 Filed 8–12–14; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2014–0017]

Research, Technical Assistance, and Training Programs: Proposed Circular

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of proposed circular and request for comment.

SUMMARY: The Federal Transit Administration (FTA) has placed in the docket and on its Web site, proposed guidance in the form of a circular, to assist recipients in their implementation of the research, development, demonstration, and deployment projects; technical assistance and standards development projects; and human resources and training projects. The purpose of this proposed circular is to provide FTA recipients guidance on application procedures and project management responsibilities. The proposed revisions to the existing circular are a result of changes made to FTA's Research, Development, Demonstration, and Deployment Program, its Technical Assistance and Standards Development Program, and its Human Resources and Training Program by the Moving Ahead for Progress in the 21st Century Act. By this notice, FTA invites public comment on the proposed circular.

DATES: Comments must be received by October 14, 2014. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by only one of the following methods, identifying your submission by docket number FTA–2014–0017. All electronic submissions must be made to the U.S. Government electronic site at *http://www.regulations.gov.*

(1) *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

(2) *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

(3) *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.

(4) *Fax:* 202–493–2251.

Instructions: You must include the agency name (Federal Transit Administration) and Docket number (FTA–2014–0017) for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA received your comments, include a self-addressed stamped postcard. All comments received will be posted without change to *www.regulations.gov* including any personal information provided and will be available to Internet users. You may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477) or *http://docketsinfo.dot.gov.*

For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time or to the U.S. Department of Transportation, 1200 New Jersey Ave. SE., Docket Operations, M–30, West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For program questions, please contact Helen Tann, Office of Research, Demonstration and Innovation, phone: 202–366–0207 or email: *helen.tann@dot.gov.* For legal questions, please contact Linda Sorkin, Office of Chief Counsel, phone: 202–366–0959 or email: *linda.sorkin@dot.gov.*

SUPPLEMENTARY INFORMATION:

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I. Overview

The Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141, July 6, 2012) made a number of changes to FTA's research program. The proposed circular reflects these updates to Federal law, proposes policy, clarifies FTA's requirements and processes, and restructures FTA Circular 6100.1D (Research, Technical Assistance and Training Program: Application Instructions and Program Management Guidelines) for clarity and ease of use.

FTA seeks public comment on the proposed circular, in particular those portions of the circular reflecting changes in the law as a result of MAP–21, as well as those portions reflecting new guidance, policies, or interpretations. FTA will publish a second notice in the **Federal Register** after the close of the comment period. The second notice will respond to comments received and announce the availability of the final circular 6100.1E. When adopted, circular 6100.1E will supersede circular 6100.1D.

This document does not include the proposed circular on which FTA seeks comment; however, an electronic version is available on FTA's Web site, at *www.fta.dot.gov.* Paper copies may be obtained by contacting FTA's Administrative Services Help Desk, at (202) 366–4865.

The Office of Management and Budget (OMB) released the ''Omni Circular,'' 2 CFR Chapter 1, Chapter II, Part 200, new *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,* final rule on December 26, 2013. The Department of Transportation (DOT) is in the process of implementing the new OMB requirements and the final regulations regarding policies and procedures applicable to Federal awards will be effective on or after December 26, 2014.

FTA grants and cooperative agreements executed prior to December 26, 2014, will continue to be subject to the regulations at 49 CFR parts 18 and 19, as in effect on the award date of such grants or agreements. Grants and cooperative agreements executed on or after December 26, 2014, will be subject to the new regulations at 2 CFR part 1201. DOT implementation of the Omni Circular may supersede some of the existing administrative requirements contained in FTA Circular 6100.

II. Chapter-by-Chapter Analysis

A. Chapter I: Introduction and Background

FTA proposes that this chapter would be substantially similar to Chapter I of circular 6100.1D. This chapter provides a general introduction to FTA that is included in all new and revised program circulars for the orientation of readers new to FTA programs. Section 2, ''Authorizing Legislation'' has been changed to reflect the most recent authorizing legislation, MAP–21. Section 3 provides contact information for FTA Headquarters, and Section 4 provides contact information for FTA regional offices. Section 5, ''Grants.Gov'' provides background information about the Web site. Section 6 sets forth definitions of terms appearing in this proposed circular to ensure a common understanding of terms. In Section 6, we propose modifying the definitions to include Electronic Clearinghouse Operation (ECHO) System and

Electronic Award and Management System and delete the definition for TEAM Web.

B. Chapter II: Program Overview

As it did in 6100.1D, Chapter II of 6100.1E provides an overview of FTA's research programs. Chapter II is divided into five sections as before, but we propose moving or amending some of the content to reflect program changes and to improve the organization and readability of the circular.

Section 1. Statutory Authority. This section provides the citations for and descriptions of the applicable programs and activities to which this circular applies.

Section 5312, Research, development, demonstration and deployment projects. Section 5312(a) authorizes the Secretary of Transportation to make Grants and enter into Contracts, Cooperative Agreements, and Other Agreements for research, development, demonstration, and deployment projects and evaluation of research and technology of national significance to public transportation, and that the Secretary determines will improve public transportation.

Section 5312(b) focuses on public transportation research projects with the goal of developing and deploying new and innovative ideas, practices, and approaches.

Section 5312(c) authorizes public transportation innovation and development projects seeking to improve public transportation systems nationwide by providing more efficient and effective delivery of public transportation services, including through technology and technological capacity improvements.

Section 5312(d)(1)–(4) establishes a program to promote the early deployment and demonstration of innovation in public transportation that has broad applicability.

Section 5312(d)(1)(5) establishes a program within FTA's Research program to support low or no emission vehicle deployment.

Depending on the statutory section under which a project is undertaken, Section 5312 authorizes the Secretary to make Grants to and enter into Contracts, Cooperative Agreements, and Other Agreements with departments, agencies, and instrumentalities of the Government, including Federal laboratories; State and local governmental entities; providers of public transportation; private or non-profit organizations; institutions of higher education; and technical and community colleges.

Section 5314, Technical assistance and standards development. Section 5314(a) authorizes the Secretary to assist in the development of voluntary and consensus-based standards and best practices by the public transportation industry.

Section 5314(b) authorizes the Secretary to make Grants and enter into Contracts, Cooperative Agreements, and Other Agreements to provide public transportation-related technical assistance to assist providers of public transportation to: Comply with the Americans with Disabilities Act (ADA); comply with human services transportation coordination requirements and enhance the coordination of related Federal resources; meet the transportation needs of elderly individuals; assist market-based development around transit stations; address transportation equity for low-income and minority individuals; and any other technical assistance activity that the Secretary determines is necessary to advance the interests of public transportation.

Section 5322, Human resources and training. Section 5322(a) authorizes the Secretary to undertake, or make grants and contracts for, programs that address human resource needs as they apply to public transportation activities including employment training, outreach to minority and female candidates, research on public transportation personnel and training needs, and training and assistance for minority business opportunities.

Section 5322(b) directs the Secretary to establish a competitive innovative public transportation workforce development program to assist the development of innovative activities in these areas.

In addition, Section 5322(d) directs the Secretary to establish a national transit institute and award grants to a public 4-year degree-granting institution of higher education to develop and conduct training and educational programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

Repealed Programs: MAP–21 repealed a number of public transportation programs that existed under the previous authorization. Funds that were authorized under these programs remain available for obligation in a grant until the applicable statutory period of availability expires, or until the funds are fully expended, rescinded by Congress, or otherwise reallocated. Entities that are awarded FY 2012 or a previous fiscal year funding should check with their FTA Program Manager for the requirements that accompany that funding.

Section 2. In the previous version of the circular, 6100.1D, Section 2 was titled ''Program Goal.'' FTA proposes removing this section in its entirety. The proposed new Section 2 is ''Responsibilities of Project Management,'' and this section lists project management responsibilities for recipients of FTA funds, FTA headquarters, and the administering FTA office. These responsibilities are unchanged from the previous version of the circular, where they appeared in Section 3.

Section 3. Civil Rights Requirements. Section 3 clarifies the civil rights requirements the Recipient must comply with when receiving Federal funding. We propose reorganizing the content, which remains substantially similar to circular 6100.1D.

Section 4. Cross-Cutting Requirements. Section 4 reminds FTA recipients that they must comply with all applicable federal laws, regulations, and directives unless FTA determines otherwise in writing. Section 4 is unchanged from circular 6100.1D, except for the addition of a hyperlink to sample Master Agreements on FTA's Web site.

C. Chapter III: Application Instructions

Section 1. Overview. This Section is substantially similar to Section 1 in circular 6100.1D.

Sections 2 and 3. Agreement Life Cycle and Application Process. For clarity, FTA proposes dividing Section 2 of circular 6100.1D, ''Application Process,'' into a new Section 2, ''Agreement Life Cycle'' and a revised Section 3, ''Application Process.''

FTA proposes augmenting the list of stages in the life cycle of an application for Federal assistance to highlight elements subsumed under ''project managed'' in the previous version (namely, implementation, management and oversight of activities supported by the Agreement; period of performance completed; final reports, independent evaluation and other Agreement products delivered to FTA; excess equipment and property acquired with Federal assistance disposed of, with FTA approval if needed; and final Federal Financial Report, budget revision and actual milestones accomplished recorded in electronic award and management system and approved by FTA).

FTA proposes relocating the description of the electronic award and management system (currently known as TEAM) to Section 3, Application Process and Section 6, Formal

Application Procedures. This reflects FTA's practice of soliciting proposals for discretionary financial assistance, selecting proposals for award, and requiring only those entities selected to use the electronic award and management system to submit detailed data in support of formal applications for assistance.

Section 4. System Registration Requirements. In this section, FTA proposes deleting the former paragraph on Central Contractor Registration and replacing it with requirements to register in the System for Award Management (SAM) and to review and update SAM information at least annually during the life of the Agreement.

Section 5. Proposal and Pre-Application Procedures. In this section, FTA proposes substituting the term ''Project Narrative'' for the former term ''White Paper'' and increasing the size limitation from 5 to 15 pages to reflect recent FTA practice in soliciting competitive proposals.

Section 6. Formal Application Procedures. In this section, FTA proposes changing references to TEAM to refer to the current electronic award and management system. While much of the information in this section is substantially similar to that of its predecessor, FTA Circular 6100.1D, we highlight the following proposed changes:

Subparagraph 6.b(2)(b). Project Budget. FTA proposes deleting the former reference to scope code 70 for projects undertaken by universities as this code is rarely used. Likewise, we propose deleting the ''University Budget Example.'' Using scope code 55 for most research-type projects will facilitate retrieving aggregate information about such projects from the electronic award and management system regardless of the type of entity performing the work.

Paragraph 6.b(3). Statement of Work. FTA proposes deleting the requirement for a literature review as inapplicable to most projects FTA has been funding under the programs covered by this circular. If FTA deems a literature search essential to a research project authorized by Section 5312(b), the solicitation will require the review.

Paragraph 6.b(5). Intergovernmental Review Process Required by Executive Order No. 12372. FTA proposes adding this paragraph explaining how to proceed if an applicant is located in a State that does not have a single point of contact.

Subparagraph 6.b(6)(b). Electronic Submittal. FTA proposes deleting the option of submitting paper hard-copy to reflect FTA's commitment to electronic award management for all recipients.

Subparagraph 6.b(6)(c). Compliance. There should be few, if any, instances when a recipient is unable to submit certifications electronically.

Subparagraph 6.b(7)(a). Environmental Considerations: Typical Projects. Since typical projects covered by the circular would not require a formal environmental impact statement (EIS), FTA proposes updating, clarifying and moving material in the previous version to this paragraph (former subparagraph 6(b)(7)(b) of FTA circular 6100.1D).

Paragraph 7(c)(1). Public Hearing Requirement. FTA has deleted the public hearing requirement in paragraph 7(c)(1) of the former version because that requirement was repealed by MAP–21.

Subparagraph 6.c(1)(a). Davis-Bacon Act. In this subparagraph, FTA proposes editing the former version for clarification without substantive change.

Section 7. Peer Review and Independent Evaluation. FTA added this section to implement a new MAP–21 statutory requirement for a comprehensive evaluation of the success or failure of projects funded under 49 U.S.C. 5312(d). *See* 49 U.S.C. Section 5312(d)(4).

Section 11. Cost Share. FTA has revised this section because MAP–21 requires a 20% local share for some projects; *see* 49 U.S.C. 5312(f) and 5314(d). MAP–21 also requires a 50% local share for Section 5322(a) and (b) projects; *see* 49 U.S.C. 5322(c).

Subsection 11(c). Program Income. This subsection includes two proposed new sentences regarding possible uses of program income when authorized by law, regulation, guidance or special condition.

Section 12. Project Approval. FTA proposes the following changes:

Subection 12.a. Notification. FTA proposes edits to this subsection for clarification and to allow flexibility in the means of contacting the recipient.

Subection 12.b. Execution of FTA Agreement. FTA proposes editing this subsection for clarification with no substantive change.

Subsection 12.c. Cost Eligibility and Payment Method. FTA has amended the instructions on reimbursement procedures in paragraph 12c(5) to a new description of the DELPHI eInvoicing System, which has superseded the former ACH system.

D. Chapter IV: Project Administration

FTA proposes minor editorial changes to improve clarity throughout Chapter IV, without substantive changes in meaning.

We have changed each reference to ''TEAM'' to ''the electronic award and management system'' because FTA is in the process of testing and deploying a successor system to TEAM. TEAM will continue to be used by FTA and recipients until the successor system becomes operational.

FTA proposes relocating detailed instructions for filing Federal Financial Reports to Appendix A.

E. Chapter V: Financial Management

Chapter V is substantially similar to chapter V in circular 6100.1D. This chapter provides guidance on the proper use and management of Federal funds that is unique to Research, Technical Assistance and Training programs. Proposed changes to this chapter include the following:

Section 3. Local Share. This section's name, ''Local Share,'' replaces the name ''Non-Federal Match,'' in FTA circular 6100.1D.

Subection 8.c. Payment Methods. This subsection provides additional guidance on payment methods. In accordance with DOT guidelines, recipients of Cooperative Agreements must request Federal funding using Delphi eInvoicing System. All supporting documentation needed to support payment is required to be scanned within the eInvoicing System to aid the FTA Approving Official in authorizing reimbursement to the recipient.

F. Chapter VI: FTA Oversight

While much of the information in this Chapter is substantially similar to that of its predecessor, FTA Circular 6100.1D, we highlight the following proposed changes:

Paragraph 2.a(1). Full Scope Financial Management System Review. We propose adding this paragraph to include the requirement that Financial Management Oversight (FMO) contractors conduct a series of interviews, full transaction reviews, and appropriate substantive tests. This paragraph also describes the seven standards for financial management systems, which are: Financial Reporting, Accounting Records, Internal Control, Budget Control, Allowable Costs, Source Documentation and Cash Management.

Paragraph 2.a(4). Special Assignment (Agreed Upon Procedures). FTA proposes adding this paragraph to describe how FTA may perform a review with the contractor to develop agreed-upon procedures for oversight of certain aspects of the recipient's financial management issues on a case-by-case basis.

G. Appendices

New Appendix A. Instructions for Completing Federal Financial Report (FFR). The information in this Appendix was formerly located in Section IV.C of FTA Circular 6100.1D. The text in proposed Appendix A is substantially similar to that of Section IV.C of FTA Circular 6100.1D. FTA proposes deleting the former Appendix A of FTA Circular 6100.1D, consisting of a Table of Other FTA Circulars, because the list of FTA circulars in effect changes frequently and a current list is available on the FTA public Web site.

Relocated Appendix B. Cost Allocation Plans. The information in Appendix B is substantially similar to that in Appendix C of FTA Circular 6100.1D. FTA proposes deleting the former Appendix B, ''Quarterly Narrative Report Example,'' because it did not provide a useful format for a quarterly narrative report. We propose locating this information in section IV.4.d. of this circular and revising it to clarify what should be in the type of comprehensive quarterly narrative report FTA seeks.

Relocated Appendix C. Request for Advance or Reimbursement (SF–270). This information is the same as located in Appendix D of FTA Circular 6100.1D.

New Appendix D. Preparation Instructions for FTA Final Reports. Appendix D is a near verbatim copy of the preparation instructions on the FTA Public Web site at *http://www.fta.dot.gov/documents/Preparation_Instructions_for_FTA_Final_Reports_June_2013.pdf.* We reformatted that document to adapt it as an Appendix (e.g., inserting numbered lists instead of bullets) but did not change the content.

Former Appendix E. FTA Regional and Metropolitan Contact Information. FTA proposes deleting this Appendix because this information is subject to change. Current information is available on the FTA public Web site.

FTA seeks comment on the content and reorganization of proposed circular 6100.1E.

Issued in Washington, DC, this 7th day of August 2014.

Therese W. McMillan,

Deputy Administrator.

[FR Doc. 2014–19129 Filed 8–12–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0087]

National Emergency Medical Services Advisory Council (NEMSAC); Notice of Federal Advisory Committee Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

Title: National Emergency Medical Services Advisory Council (NEMSAC); Notice of Federal Advisory Committee Meeting.

ACTION: Meeting Notice—National Emergency Medical Services Advisory Council.

SUMMARY: The NHTSA announces a meeting of NEMSAC to be held in the Metropolitan Washington, DC, area. This notice announces the date, time, and location of the meeting, which will be open to the public, as well as opportunities for public input to the NEMSAC. The purpose of NEMSAC, a nationally recognized council of emergency medical services representatives and consumers, is to advise and consult with DOT and the Federal Interagency Committee on EMS (FICEMS) on matters relating to emergency medical services (EMS).

DATES: This open meeting will be held on September 9, 2014, from 8 a.m. to 2:30 p.m. EDT, and on September 10, 2014, from 8 a.m. to 12 p.m. EDT. A public comment period will take place on September 9, 2014, between 1:15 p.m. and 2 p.m. EDT and September 10, 2014, between 9 a.m. and 9:30 a.m. EDT. The NEMSAC is requesting special public comment on the FICEMS Strategic Plan from 1:15 to 1:30 p.m. EDT on Tuesday, September 9, 2014. Written comments from the public must be received no later than September 5, 2014.

ADDRESSES: The meeting will be held at the Performance Institute on the third floor of 901 New York Avenue NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Drew Dawson, Director, U.S. Department of Transportation, Office of Emergency Medical Services, 1200 New Jersey Avenue SE., NTI–140, Washington, DC 20590; telephone 202–366–9966; email *Drew.Dawson@dot.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App.). The NEMSAC is authorized under Section 31108 of the Moving Ahead with Progress in the 21st Century Act of 2012. The NEMSAC will meet on Tuesday and Wednesday, September 9–10, 2014, at the Performance Institute on the third floor of 901 New York Avenue NW., Washington, DC 20001.

Tentative Agenda of National EMS Advisory Council Meeting, September 9–10, 2014

The tentative agenda includes the following:

Tuesday, September 9, 2014 (8 a.m. to 2:30 p.m. EDT)

(1) Opening Remarks
(2) Disclosure of Conflicts of Interests by Members
(3) Reports of liaisons from the Departments of Transportation, Homeland Security, and Health & Human Services
(4) Presentation and Discussion from the Centers for Disease Control and Prevention
(5) Presentation, Discussion and Possible Adoption of Reports and Recommendations from the following NEMSAC Workgroups:
  a. FICEMS Strategic Plan Implementation
  b. Revision of the EMS Education Agenda for the Future
  c. Health Reform
(6) Other Business of the Council
(7) Public Comment Period on the FICEMS Strategic Plan (1:15 p.m. to 1:30 p.m. EDT)
(8) General Public Comment Period (1:30 p.m. to 2 p.m. EDT)
(9) Workgroup Breakout Sessions (2:30 p.m.–5 p.m. EDT)

Wednesday, September 10, 2014 (8 a.m. to 12 p.m. EDT)

(1) Unfinished Business/Continued Discussion from Previous Day
(2) Public Comment Period (9 a.m. to 9:30 a.m. EDT)
(3) Adoption of NEMSAC Work Products
(4) Next Steps and Adjourn

On Wednesday, September 9, 2014, from 2:30 p.m. to 5 p.m. EDT, the NEMSAC workgroups will meet in breakout sessions at the same location. These sessions are open for public attendance, but their agendas do not accommodate public comment. A final agenda as well as meeting materials will be available to the public online through *www.EMS.gov* on or before September 5, 2014.

Registration Information: This meeting will be open to the public; however, pre-registration is requested. Individuals wishing to attend must register online at *http://events.signup4.com/NEMSACSept2014*

no later than September 5, 2014. There will not be a teleconference option for this meeting.

Public Comment: Members of the public are encouraged to comment directly to the NEMSAC. Those who wish to make comments on Tuesday, September 9, 2014, between 1:15 p.m. and 2 p.m. EDT or Wednesday, September 10, 2014, between 9 a.m. and 9:30 a.m. EDT, should indicate their preference when checking in for the meeting. The NEMSAC is requesting special public comment on the FICEMS Strategic Plan from 1:15 to 1:30 p.m. EDT on Tuesday, September 9, 2014. The FICEMS Strategic Plan is available for download at *www.EMS.gov/FICEMS/plan.htm.* In order to allow as many people as possible to speak, speakers are requested to limit their remarks to 5 minutes. Written comments from members of the public will be distributed to NEMSAC members at the meeting and should reach the NHTSA Office of EMS no later than September 5, 2014. Written comments may be submitted by either one of the following methods: (1) You may submit comments by email: *nemsac@dot.gov* or (2) you may submit comments by fax: (202) 366–7149.

Future Meeting Dates: As a courtesy, NHTSA is also announcing future meeting dates for 2014. The NEMSAC will meet in Washington, DC at a site yet to be determined on December 3, 2014 and the morning of December 4, 2014. FICEMS will meet on the afternoon of December 4, 2014.

Issued on: August 8, 2014.

Jeffrey P. Michael,

Associate Administrator for Research and Program Development.

[FR Doc. 2014–19119 Filed 8–12–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 720X

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 720X, Amended Quarterly Federal Excise Tax Return.

DATES: Written comments should be received on or before October 14, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyje at Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *LanitaVanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Amended Quarterly Federal Excise Tax Return.

OMB Number: 1545–1759.

Form Number: 720X.

Abstract: Form 720X is used to make adjustments to correct errors on form 720 filed for previous quarters. It can be filed by itself or it can be attached to any subsequent Form 720. Code section 6416(d) allows taxpayers to take a credit on a subsequent return rather than filing a refund claim. The creation of Form 720X is the result of a project to provide a uniform standard for trust fund accounting.

Current Actions: There are no changes being made to Form 720X at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 22,000.

Estimated Time per Response: 6 hrs, 56 minutes.

Estimated Total Annual Burden Hours: 152,460.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 7, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–19177 Filed 8–12–14; 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, September 11, 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, September 11, 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: August 6, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–19188 Filed 8–12–14; 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, September 24, 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, September 24, 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: August 6, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–19169 Filed 8–12–14; 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, September 18, 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, September 18, 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: August 6, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–19185 Filed 8–12–14; 8:45 am]

BILLING CODE 4830–01–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 September 17, 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, September 17, 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: August 6, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–19170 Filed 8–12–14; 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, September 17, 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, September 17, 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: August 6, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–19180 Filed 8–12–14; 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, September 17, 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, September 17, 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: August 6, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–19175 Filed 8–12–14; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 79 Wednesday,

No. 156 August 13, 2014

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Status for the Distinct Population Segment of the North American Wolverine Occurring in the Contiguous United States; Establishment of a Nonessential Experimental Population of the North American Wolverine in Colorado, Wyoming, and New Mexico; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket Nos. FWS–R6–ES–2012–0107 and FWS–R6–ES–2012–0106; 4500030113]

RIN 1018–AY26; 1018–AZ22

Endangered and Threatened Wildlife and Plants; Threatened Status for the Distinct Population Segment of the North American Wolverine Occurring in the Contiguous United States; Establishment of a Nonessential Experimental Population of the North American Wolverine in Colorado, Wyoming, and New Mexico

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rules; withdrawal.

SUMMARY: We, the U.S. Fish and Wildlife Service, withdraw the proposed rule to list the distinct population segment of the North American wolverine (*Gulo gulo luscus*) occurring in the contiguous United States as a threatened species under the Endangered Species Act of 1973, as amended (Act). This withdrawal is based on our conclusion that the factors affecting the DPS as identified in the proposed rule are not as significant as believed at the time of the proposed rule's publication (February 4, 2013). We base this conclusion on our analysis of current and future threat factors. Therefore, we withdraw our proposal to list the wolverine within the contiguous U.S. as a threatened species. As a result, we also withdraw our associated proposed rule under section 4(d) of the Act contained in the proposed listing rule and withdraw the proposed nonessential experimental population designation under section 10(j) of the Act for the southern Rocky Mountains, which published in a separate document on February 4, 2013.

DATES: The February 4, 2013 (78 FR 7864), proposal to list the distinct population segment of the North American wolverine occurring in the contiguous United States as a threatened species and the February 4, 2013 (78 FR 7890), proposal to establish a nonessential experimental population of the North American wolverine in Colorado, Wyoming, and New Mexico are withdrawn as of August 13, 2014.

ADDRESSES: The withdrawal of our proposed rules, comments, and supplementary documents are available on the Internet at *http://www.regulations.gov* at Docket Nos. FWS–R6–ES–2012–0107 (proposed listing rule and proposed rule under section 4(d) of the Act) and FWS–R6–ES–2012–0106 (proposed nonessential experimental population). Comments and materials received, as well as supporting documentation used in the preparation of this withdrawal, are also available for public inspection, by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Montana Ecological Services Office, 585 Shepard Way, Helena, MT 59601; telephone (406) 449–5225.

FOR FURTHER INFORMATION CONTACT: Jodi Bush, Field Supervisor, U.S. Fish and Wildlife Service, Montana Ecological Services Office (see **ADDRESSES**). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish this document. Under the Endangered Species Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule. We issued a proposed rule to list the distinct population segment (DPS) of the North American wolverine (*Gulo gulo luscus*) occurring in the contiguous United States as a threatened species (78 FR 7864; February 4, 2013), hereafter, referred to as ''wolverine'' unless otherwise noted. However, this document withdraws that proposed rule because we have determined that factors affecting the DPS cited in the proposed listing are not threats to the DPS such that it meets the definition of an endangered or threatened species under the Act. Because of our withdrawal of that action, we also withdraw the associated proposed rule under section 4(d) of the Act contained in the proposed listing rule (78 FR 7864; February 4, 2013) and withdraw the proposed nonessential experimental population designation under section 10(j) of the Act for the southern Rocky Mountains (78 FR 7890; February 4, 2013).

The basis for our action. Under the Endangered Species Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that based on new information and further analysis of the existing and new data, factors affecting the DPS cited in the proposed listing rule do not place the wolverine in danger of extinction now or likely to become so in the foreseeable future.

Peer review and public comment. We sought comments from seven independent specialists to ensure that our proposed listing determination was based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our evaluation of the science underlying our listing proposal. We received substantive peer reviews from all seven reviewers. We also considered all comments and information we received during the comment periods. In April 2014, we convened a panel of experts to provide us with assessments of the available scientific information on the potential impacts of climate change on wolverines and their habitat. A report containing the results of that workshop can be obtained from the Service's Region 6 peer-review Web site at the following link: *http://www.fws.gov/mountain-prairie/science/PeerReviewDocs/Final_Wolverine_Panel_Report.pdf*. That report was made available for public comment through the Regulations.gov Web site.

Previous Federal Actions

Please refer to the proposed listing rule for the wolverine (78 FR 7864; February 4, 2013) for a detailed description of previous Federal actions concerning this DPS.

Following publication of the proposed rule, there was scientific disagreement and debate about the interpretation of the habitat requirements for wolverines and the available climate change information used to determine the extent of threats to the DPS. Differing interpretations of the available climate change information led to scientific disagreement regarding the current status of the DPS. In particular, some commenters and peer reviewers raised questions regarding:

(1) The interpretation of scientific literature in the proposed rulemaking and scientific literature that may not have been readily available for our use in our analysis to define habitat parameters. Specifically, some commenters and peer reviewers questioned the basis for defining wolverine habitat based on persistent spring snow used by Copeland *et al.* (2010). Some peer reviewers and

commenters suggested that other methods of habitat definition or other dates used to define habitat based on persistent snow are more scientifically defensible and would yield very different results.

(2) Commenters suggested that McKelvey *et al.* (2011) used an invalid habitat model developed by Copeland *et al.* (2010) to project future climate impacts to wolverine habitat, and for that reason, the commenters believe projections in McKelvey *et al.* (2011) are also invalid.

(3) Commenters asserted that there is high uncertainty with projections made using downscaled global climate modeling, which we used to analyze the impacts of climate change on wolverine habitat and ecology.

Based on this substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the proposed listing, on February 5, 2014 (79 FR 6874), we announced a 6-month extension of the final determination of whether to list the wolverine DPS as a threatened species. We also reopened the comment period on the proposed rule to list the contiguous U.S. DPS of the North American wolverine for 90 days.

On April 3–4, 2014, the Service and partners from wildlife agencies in the States of Idaho, Montana, and Wyoming convened a panel of nine experts in climate change, wolverines and other mammalian carnivores, habitat modeling, and population ecology to discuss climate-related habitat issues and possible future population trends for wolverines. The objective of this workshop was to better understand the strength of the relationships between climate change, wolverine habitat, and future wolverine population trends through dialogue with an expert panel. The workshop was conducted using a structured agenda with exercises and discussions to investigate whether and how climate change might affect wolverines in the contiguous United States. We did not seek consensus or conformity among panelists, but instead scored panelists' opinions and elicited discussion regarding the range of variance among expert opinion. The agenda was divided into four parts: defining wolverine habitat, evaluating future snow coverage, evaluating future habitat projections, and evaluating future wolverine population trends. A full report was generated from the workshop. The report was made available for public comment through the Regulations.gov Web site and is available as cited in this withdrawal.

Background

Species Information

Refer to the February 4, 2013, proposed listing rule at 78 FR 7864 for information about the wolverine's taxonomy; life history; requirements for habitat, space, and food; densities; status in Canada and Alaska; geographic range delination complexities; distribution; and habitat relationships and distribution.

Distinct Population Segment

Please refer to our December 14, 2010, 12-month petition finding (75 FR 78030) and our February 4, 2013, proposed rule to list the North American wolverine (78 FR 7864) for a detailed evaluation of the wolverine under our DPS policy.

This Action

Based upon our review of the public comments, comments from other Federal and State agencies, peer review comments, issues raised by the wolverine science panel workshop, and other new relevant information that became available since the publication of our February 4, 2013, listing proposal, we have determined that the North American DPS of the wolverine does not warrant listing as an endangered or a threatened species. This document therefore withdraws the proposed rule published on February 4, 2013 (78 FR 7864), as well as the associated proposed rule under section 4(d) of the Act (16 U.S.C. 1531 *et seq.*) (78 FR 7864; February 4, 2013) and the proposed nonessential experimental population in Colorado, Wyoming, and New Mexico (78 FR 7890; February 4, 2013).

We have re-analyzed the effects of climate change on the wolverine under listing factor A (the present or threatened destruction, modification, or curtailment of the species' habitat or range). While there is significant evidence that the climate within the larger range of the wolverine is changing, affecting snow patterns and associated wolverine habitat, the specific response or sensitivity of wolverines to these forecasted changes involves considerable uncertainty at this time (see *Summary of Impacts of Climate Changes,* below).

We also reevaluated all other risk factors cited in the February 4, 2013, proposed rule, as well as any new potential risk factors that have come to light since the proposed rule through the public comment process or new information. We reaffirm our determination in the proposed rule that these risk factors are not threats to the DPS.

Summary of Comments and Recommendations

The proposed rule published on February 4, 2013 (78 FR 7864), opened a 90-day comment period on our proposal to list the wolverine as a threatened species and establish a rule under section 4(d) of the Act for the subspecies. That comment period closed on May 6, 2013. On October 31, 2013, we reopened the comment period on the proposed rule (78 FR 65248) for an additional 30 days, ending December 2, 2013. On February 5, 2014, we extended our final determination of the proposed actions for 6 months (79 FR 6874), and at that time we reopened the comment period for another 90 days, ending May 6, 2014. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting public comment were published in newspapers of general circulation in each of the Service regions within the DPS. We held several public hearings throughout the range of the DPS; these were held in Boise, Idaho, on March 13, 2013; in Lakewood, Colorado, on March 19, 2013; and in Helena, Montana, on March 27, 2013. All substantive information provided during the comment periods and at the hearings has either been used to support this withdrawal or is addressed below.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from seven knowledgeable individuals with scientific expertise that included familiarity with the wolverine in the contiguous U.S. DPS and its habitat, biological needs, and threats. We received responses from all seven of the peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the proposed listing of the DPS of the North American wolverine. Five peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve the rule, while two peer reviewers disagreed substantially with the conclusions in our proposed rule. Peer reviewer comments are addressed in the following summary and are used to support this withdrawal document as appropriate.

(1) *Comment:* Peer reviewers and commenters stated that the assessment in the proposed rule of the impacts of winter recreation on wolverines

understated the potential effect of this risk factor. Commenters stated that there are significant gaps in our knowledge of the potential effects of winter recreation on wolverines and recommended more caution in how we approach the subject.

Our Response: We agree that there is significant uncertainty about many aspects of wolverine biology and the many potential risk factors that may affect the species. Our 5-factor analysis considers the best scientific information currently available. Our determination in the proposed rule was that the best available information does not indicate that winter (or summer) recreation is a threat to the DPS. As stated in the proposed rule, much of the recreational winter use by humans occurs in relatively small areas, like ski areas, that make up only a small portion of the large home range of a wolverine, and do not occur at a scale that is likely to have a population-level effect. We acknowledge that there are a limited number of studies that have evaluated the impact of human activities on wolverines (Heinemeyer *et al.* 2001, Heinemeyer and Copeland 1999, Heinemeyer *et al.* 2012, Pulliainen 1968); however, what information is available indicates there is no threat to wolverines from recreational activities. This does not mean that new scientific information, should it show significant impacts from this factor, would be ignored, or that the case is closed and no more research is needed. To the contrary, we hope the current research on the impacts of recreation on wolverines now taking place will shed significant new light on this issue. Until new data indicate otherwise, we stand by our assessment that the best available information does not indicate that winter recreation is a threat to the DPS.

(2) *Comment:* Multiple reviewers and commenters stated that the claim in the proposed rule that human-caused mortality is likely additive to natural mortality is not well-founded, and that under sufficient scrutiny, it is apparent that human-caused mortality is not additive in Montana.

Our Response: Very little is known about wolverine populations in the DPS including population size, trends, mortality, or reproductive rates. As described in the proposed rule, the population in the DPS is thought to be around 250–300, and consists of small, semi-isolated subpopulations that likely interact as a metapopulation with some connection to the larger population in Canada. It is true that human-caused mortality has never been demonstrated to be additive or compensatory in this area. We agree that, given the small amount of human-caused wolverine mortality and the fact that wolverine populations are increasing, current levels of mortality are sustainable and that human-caused mortality is not currently additive. We have changed this conclusion in this document.

(3) *Comment:* One peer reviewer stated that the characterization of the wolverine niche as ''unproductive'' ignores the fact that wolverines are adapted to exploiting their particular environment. A niche that is unproductive for most species may be highly productive for wolverines.

Our Response: Overall, the habitats used by wolverine are considered unproductive relative to other habitats across the globe. However, wolverines are specially adapted to take advantage of the resources offered in the habitats they occupy, and so, the niche is productive from the wolverine's perspective.

(4) *Comment:* One peer reviewer and several commenters thought that the proposed rule states that historical densities would have likely been higher than today leading to larger historical populations.

Our Response: In the proposed rule, we meant that the overall population would have been larger historically due to the larger area occupied by wolverines. We did not mean to suggest that we believed that densities would have been higher.

(5) *Comment:* One peer reviewer stated that Aubry *et al.* (2007) did not suggest that the habitat in which extralimital records were found is unimportant and that we incorrectly relayed this in the proposed rule.

Our Response: We agree with the reviewer that there may be important areas for wolverines that contain habitat important for behaviors other than residential home range use or reproduction (for example, areas of connectivity used for movement between suitable habitat patches). However, available information on this topic is lacking, and it is not possible to accurately identify these types of habitats at this time.

(6) *Comment:* One peer reviewer commented that lack of adequate gene flow should be considered a major threat to wolverines. The potential for human occupation of linkage habitat could adversely affect movement of wolverines between habitats, making gene flow a more important issue in the future.

Our Response: We agree that it is possible that lack of sufficient connectivity between populations and resultant lack of genetic exchange could affect wolverines. However, at this time, the best available information does not suggest that lack of adequate gene flow or reduced genetic diversity has had negative effects on wolverines in the DPS, as is discussed below. Human disturbance in wolverine habitat in the contiguous United States has likely resulted in the loss of some minor amount of wolverine habitat, but this loss has not yet been quantified. Wolverines have been documented to persist and reproduce in areas with high levels of human use and disturbance, including developed alpine ski areas and areas with motorized use of snowmobiles (Heinenmeyer 2012, entire), which suggests that that such activities are not likely to impede movement of wolverines between habitats. Whether human occupation or disturbance reduces wolverine gene flow, and ultimately wolverine population or metapopulation persistence, is uncertain at this time.

(7) *Comment:* Several peer reviewers and commenters thought that climate change is likely to have the effect of concentrating human activities, like winter recreation, into remaining cold, snowy habitat, further increasing the effect of these activities on wolverines.

Our Response: This scenario, while possible, is speculative. It is also possible (but similarly speculative) that winter recreation will become less popular as opportunities diminish. However, we have no evidence to suggest that winter recreation activities have a negative effect on wolverines;, and whether further concentrating recreation into smaller areas (should this occur) would affect wolverine population and metapopulation persistence is uncertain. These potential effects were considered but do not rise to the level of a threat because available information does not indicate evidence of such effects at this time.

(8) *Comment:* One peer reviewer and several commenters stated that a population viability analysis would provide better information on which to base the listing decision than what is currently relied upon.

Our Response: While a population viability analysis may be desirable, at this point in time, none exists for wolverines in the DPS due to a lack of demographic information that would be required to do such an analysis. The Act requires that we base the listing decision on the best scientific and commercial information available at the time of the decision.

(9) *Comment:* One peer reviewer and many commenters asserted that loss of genetic diversity due to small population size is a threat to the DPS regardless of climate change.

Our Response: Small population size and reduced genetic diversity are potential, though as-yet undocumented, threats to wolverines in the contiguous United States. There is some evidence that genetic diversity is lower in wolverines in the DPS than it is in the more contiguous habitat in Canada and Alaska. The consequence of this lower genetic diversity to wolverine conservation is unknown. We do not discount the possibility that loss of genetic diversity could be negatively affecting wolverines now and continue to do so in the future. It is important to point out, however, that wolverine populations in the DPS area are thought to be the result of colonization events that have occurred since the 1930s. Such recent colonizations by relatively few individuals and subsequent population growth are likely to have resulted in founder effects, which could contribute to low genetic diversity (Schwartz *et al.* 2007). While we acknowledge that the effect of small population size and low genetic diversity may become more significant if populations become smaller and more isolated, we lack reliable information to conclude if and when this would occur.

(10) *Comment:* One peer reviewer stated that the proposed rule should not have considered trapping a threat because trapping only occurs in Montana, and to be considered a threat, an activity must occur across the entire range of the DPS.

Our Response: In a listing analysis, we consider all potential threats regardless of the extent of their occurrence to make a determination as to whether all of the threats, when considered individually or cumulatively, indicate that the DPS meets the definition of an endangered or threatened species under the Act. Therefore, threats that occur in only a portion of the range of the DPS may affect the conservation status of the whole, or affect a substantial enough portion of the whole so that the future of all or a significant portion of the range of the DPS is at risk.

(11) *Comment:* The conclusion that females are unlikely to move into the southern Rocky Mountains on their own is speculative.

Our Response: Although most studies document greater dispersal distances for males than females (Hornocker and Hash 1981, p. 1298; Banci 1994, pp. 117–118; Copeland and Yates 2006, Figure 9; Moriarty *et al.* 2009, entire; Inman *et al.* 2009, pp. 22–28; Brian 2010, p. 3;), Vangen *et al.* (2001, p. 1644) found that both males and females are capable of long-distance dispersal. They documented female dispersal distances of up to 178 km in one case, with average dispersal distance (60 ± 48 km) not significantly different from males (51 ± 30 km). Given this scientific evidence, we believe it is possible that females could move into the southern Rocky Mountains without human facilitation.

(12) *Comment:* One peer reviewer commented that the proposed rule indicates that we have strong information about where wolverine dens occur in Idaho and Montana. This may lead the reader to believe that all potential denning areas are known. This is not the case.

Our Response: We agree with the reviewer that we do not know where all potential wolverine dens are located. Dens may occur outside of the conditions described in the proposed rule. Although the proposed rule provided an accurate summary of the existing scientific information pertaining to documented den sites in Idaho and Montana, we did not mean to imply that all potential denning sites are known.

(13) *Comment:* One peer reviewer noted that, in the proposed rule, we indicate that the elevations used by wolverines that once inhabited the Sierra Nevada Range are unknown. In fact, we do have reliable information that is compiled in Aubry *et al.* 2007.

Our Response: While we agree that the account of location data in Aubry *et al.* (2007) provides some information on wolverine use of the Sierra Nevada Range, the information contained in that report is not comparable to habitat use information from radio-telemetry studies used elsewhere in the proposed rule, where we reported highly credible elevation information (Copeland 1996, p. 94; Magoun and Copeland 1998, pp. 1315–1316; Inman *et al.* 2007c, p. 71). The information reported in Aubry *et al.* (2007) represents opportunistically collected wolverine encounters and trapping information, which are likely biased by factors that affect the probability of humans detecting wolverines. These biases include the confounding factor of human use and baiting of traps, which could cause wolverines to venture into habitats they otherwise seldom use. These potential biases led us to conclude that the elevation data for California compiled by Aubry *et al.* (2007) are not reliable for drawing conclusions regarding wolverine habitat use in the Sierra Nevada at any but the grossest of scales.

(14) *Comment:* One peer reviewer stated that the proposed rule was premature in concluding that the Great Lakes and Northeast regions do not support a wolverine population now, and likely did not support wolverine populations historically. This conclusion is not well supported by the available information, which shows a relatively consistent historical record for the early post-settlement period for the Great Lakes and a sparser record for the Northeast.

Our Response: Our conclusion that the Great Lakes area was not historically wolverine habitat was based on a review of historical occurrence records for wolverines in this area. We agree that the conclusion about historical populations was premature, and that this area may have supported wolverine populations prior to and into the settlement period. We continue to conclude that the Northeast was unlikely to have supported wolverines historically, but agree that the evidence is not definitive.

(15) *Comment:* One peer reviewer asserted that the proposed rule erred by stating that wolverines are habitat generalists. Wolverines require very specific habitat conditions and are correctly considered habitat specialists.

Our Response: Wolverine habitat in the contiguous U.S. appears to consist of disjunt patches of rugged, high alpine areas with with a mix of tree cover, alpine meadow boulders, avalanche chutes, and patches of spring snow (Copeland *et al.*2010, entire; Inman *et al.* 2012, p.785; Inman *et al.* 2013, p. 283). We agree that they could be considered habitat specialists.

(16) *Comment:* One peer reviewer noted that the proposed rule indicates that the wolverine found in the Sierra Nevada Range of California in 2008 was from Idaho based on genetic information. The genetics of that individual were not diagnostic of Idaho, and could in fact have come from other portions of the wolverine range.

Our Response: Moriarty *et al.* (2009, entire) used mitochondrial and microsatellite genetic evidence, as well as stable isotope analysis, to verify the wolverine's origin. That analysis placed the California wolverine into a group primarily comprised of individuals from the Sawtooth Mountains of Idaho with a confidence level of 73.4 percent.

(17) *Comment:* Several peer reviewers and commenters were confused by our use of wolverine science from Scandinavia or were unsure when our conclusions were based on Scandinavian data.

Our Response: We have attempted to clarify when referring to data collected in Scandinavia. In many cases when we do not have data from North America, we found Scandinavian wolverine data are the best available information regarding general wolverine biology,

where behavior is consistent regardless of geographic region.

(18) *Comment:* One peer reviewer commented that there are historical wolverine records from New Mexico, and this should be noted in the rule.

Our Response: The potential for wolverine presence in New Mexico is confounded by a sparse historical record that may not accurately reflect wolverine distribution. One 19th century record from New Mexico—without precise locality information—was reported in Aubry *et al.* (2007). The lack of precise location data in this area so close to Colorado and its known historical (pre-1930) wolverine population leaves open the possibility that the animal in question was actually from the mountains of adjacent Colorado. Habitat in the Sangre de Cristo Mountains of northern New Mexico is contiguous with habitat in Colorado that contained verifiable historical wolverine records. Based on this evidence of contiguous habitat and a documented record, it is likely (though uncertain) that wolverines in the southern Rocky Mountains occurred in adjacent contiguous habitat in New Mexico's Sangre de Cristo Mountains and possibly other mountain ranges in northern New Mexico. It is not known whether wolverines in this area, if present, would have been established as an extension of the southern Rocky Mountain population, or rather might have been occasional migrants to the area.

(19) *Comment:* One peer reviewer commented that the proposed rule determined that the DPS is discrete based on the international boundary between the United States and Canada. The reviewer suggested that the Service could also conclude the DPS is discrete based on differences in genetics between the populations in Canada and the United States.

Our Response: As described in our December 14, 2010, 12-month petition finding (75 FR 78030) and our February 4, 2013, proposed rule to list the DPS (78 FR 7864), to be considered discrete under our DPS Policy, a population of a vertebrate species needs to satisfy either of two conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors (measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries, across which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist. Having found that the population was discrete based on the differences in control of exploitation and conservation status across the international boundary, an evaluation of possible genetic discontinuity was not necessary, as only one of the conditions need be met to satisfy the discreteness criterion.

(20) *Comment:* One peer reviewer and several commenters said that climate changes to ecosystems can cause counter-intuitive movement of climatic conditions, resulting in changes that are difficult to predict. For example, in the proposed rule it states that wolverine habitat is likely to migrate northward and up mountain slopes as climate changes progress, but this result is not necessarily the case.

Our Response: We agree that there is considerable uncertainty in how climate change will affect wolverine habitat and population persistence. Climate modelling has been done at broad ecological scales, and we do not know how fine-scale changes in snow patterns may affect population viability. There are a variety of fine-scale local factors that determine where wolverines den, the quality of den sites, and how wolverines use the landscape. As is discussed further below, we lack a clear understanding of how changes in snowfall will affect wolverine habitat quality and ultimately population viability and persistence, and that is reflected in the text of this document.

(21) *Comment:* Two peer reviewers and multiple commenters stated that the proposed rule relies almost entirely on the Copeland *et al.* (2010) bioclimatic envelope model as a prediction of suitable habitat. This hypothesis is not based on sound theory.

Our Response: While Copeland *et al.* (2010) portrays a strong argument for wolverine reliance on spring snow cover, their modeling did not consider other factors such as land cover, topography, and human footprint that have been considered in the analyses by Inman *et al.* (2013) and Fisher *et al.* (2013). Further, Copeland himself (November 26, 2013; p. 2) stated his belief that there are other factors beyond snow that influence wolverine distribution. We have reflected these concerns in the text of this document.

(22) *Comment:* One peer reviewer commented that the model in Copeland *et al.* (2010) overestimates the habitat used for wolverine denning by approximately 75 percent. This means that up to 75 percent of that modeled habitat could be lost to climate change impacts without affecting wolverine populations. Therefore, the predicted impacts of the McKelvey *et al.* (2011) analysis are not likely to occur.

Our Response: It is unclear how much habitat wolverines need for denning purposes. However, den sites do not appear to be limited at this time. Available information suggests it is possible that changes in climate may affect availability of deep snow for den sites, but the specific response or sensitivity of wolverines to these forecasted changes is uncertain at this time.

(23) *Comment:* Two peer reviewers asserted that effective population estimates cited in the proposed rule from Schwartz *et al.* (2009) did not include sampling from portions of the range of the DPS. This lack of sampling the entire DPS area may have biased the estimated effective population size low.

Our Response: The reasons for excluding areas from the sample are covered in Schwartz *et al.* (2009) and have to do with reducing the effects of population substructure in the effective population size estimate. Essentially, when making this type of calculation, one attempts to sample those animals that are part of an interbreeding population. It is not desirable to include adjacent populations that may be semi-isolated, as this would bias the results. The purpose of estimating genetically effective population size is not to produce a population estimate, but to use the effective population size estimate as a tool to make inferences about the potential for the maintenance of genetic diversity. In that light, it is appropriate to sample only from areas that are thought to form cohesive populations. The estimate provided for the northern Rocky Mountains populations was low, and represents the effective population size for that area. This result is important to the listing decision because the northern Rocky Mountains portion of the DPS is thought to be the largest subpopulation in the DPS and is physically connected to Canada. Therefore, we expect that the northern Rocky Mountains would have the subpopulation that is most genetically resilient of the current subpopulations in the DPS.

(24) *Comment:* One peer reviewer commented that the bioclimatic envelope model in Copeland *et al.* (2010) does not encompass all habitat and all dens used by wolverines, and so is invalid.

Our Response: Copeland *et al.* (2010) acknowledge that information on wolverine historical range in Europe and Asia is lacking and the ''Methods'' section of their paper describes the timeframe and other criteria used as a basis for the habitat and den site information used in their modeling. Models typically do not encomass all

habitat and reproductive areas used by the particular species being assessed. The validity of models and their outcomes does not require that they encompass all habitat and all reproductive areas of a species. While we find that the model does provide valuable information on the correlation between wolverine and snow cover, we acknowledge that there are limitations.

(25) *Comment:* Two peer reviewers and several commenters stated that central to acceptance of the Copeland *et al.* (2010) snow model and the subsequent use of the snow model in McKelvey *et al.* (2011) for predicting future wolverine habitat in the western States, one must accept that wolverine denning extends to May 15 and that continuous snow cover is required until then in the western States.

Our Response: The habitat described in the Copeland model includes areas that retained snow until May 15, in as few as 1 of 7 years. In other words, if an area retained snow in only 1 of 7 years, it was still included in the model describing habitat, and 97.9 percent of the sample of den sites fell within this area. That means that some proportion of those den sites fell within an area that did not retain snow each year. We acknowledge that den abandonment often occurs earlier than May 15. Abandonment varies from March to May, with earlier timing associated with den sites in Idaho, and later abandonment documented in Alaska and Norway (Myrberget 1968, pp. 112–114; Magoun and Copeland 1998, pp. 1316–1317). However, 95 percent of summer and 86 percent of winter telemetry locations were concordant with spring snow coverage. It is important to note that factors beyond spring snow persistence were not considered in the model; therefore, the model may not present a complete picture of factors that influence wolverine distribution.

(26) *Comment:* Two peer reviewers and several commenters thought that the results in Copeland *et al.* (2010) are biased by the fact that most known wolverine dens occur in mountainous habitats. This is an artifact of where people have searched for wolverine dens rather than where most dens occur. If more searching had been done in lowland boreal habitats, the fit of the Copeland *et al.* (2010) model would not have been as good.

Our Response: It may be true that if more dens had been discovered in flat or lowland boreal forest areas that the fit of the model would have been worse. This is explained by the authors of Copeland *et al.* (2010) as an artifact of the remote sensing data used in the analysis. Heavily canopied habitats, such as lowland boreal forests, hide snow beneath canopy cover, and the snow may be missed by satellites. This problem is largely irrelevant to the listing determination, however, because the habitats in the contiguous U.S. DPS are not lowland boreal habitats but rather mountainous habitats where the model fit is very good.

(27) *Comment:* Two peer reviewers and several commenters said that the analysis in Copeland *et al.* (2010) is invalid as an estimate of wolverine habitat. McKelvey *et al.* (2011) relies on Copeland *et al.* for input data, and so is also invalid as an estimate of the potential impacts of climate change on wolverine habitat.

Our Response: Copeland *et al.* (2010) portrays a strong argument for wolverine reliance on spring snow cover; however, as discussed under Factor A, the analysis did not consider factors beyond snow that may influence wolverine habitat. Therefore, we believe that while Copeland *et al.* (2010) represents the best available information, the model outcome may not provide a complete picture of available habitat. In their climate change modeling, McKelvey *et al.* (2011) relied on conclusions in Copeland *et al.* (2010), that wolverine habitat is closely tied to persistent spring snow cover. Given the uncertainties in Copeland *et al.*'s (2010) bioclimatic envelope model, predictions of wolverine habitat under climate change in McKelvey *et al.* (2011) may also not be accurate.

(28) *Comment:* Two peer reviewers stated that the limitations of Moderate Resolution Imaging Spectroradiometer (MODIS)-based snow cover models should be recognized and taken into consideration when evaluating the accuracy of snow model predictions. For example, McKelvey *et al.* (2011) recognized that there are issues with the scale at which the MODIS data can be applied.

Our Response: We agree that there are limitations inherent in downscaled climate models and that it is important to understand the effect of climate-data spatial resolution on wolverine viability in complex terrain. Downscaling techniques improve understanding of climate at smaller, regional scales compared to Global Climate Models, but their spatial resolution is still inadequate to describe the variability of microclimates in which organisms live (Potter *et al.* 2013, p. 2935). Franklin *et al.* (2012, pp. 478–482) show that there can be large differences between suitable habitats predicted from coarse versus fine-scale climate models, and concluded that, on average, a scale approximately twice as fine as that used in McKelvey *et al.* (2011, entire) (280 m vs. 500 m) is adequate, and that in rugged terrain (such as that used by wolverines), even finer models (e.g., 10 to 30 m) may be needed to represent significant microclimates. McKelvey *et al.* (2011, p. 2895) reached similar conclusions about their own modeling efforts: ''although wolverine distribution is closely tied to persistent spring snow cover (Copeland *et al.* 2010), we do not know how fine scale changes in snow patterns within wolverine home range may affect population persistence.'' We concur; an improved understanding of how microclimatic variation alters the habitat associations of wolverines at fine spatial scales is needed. Ultimately, our final listing decision for the wolverine rested on the question of whether we can reliably predict how the effects of changes in climate on habitat may affect population persistence in the DPS; therefore, this limitation of the model was of critical importance in our reevaluation of the proposed rule.

Comments From States, Agencies, and the Public

(29) *Comment:* There is not enough information known about the wolverine population, such as size, demographics, distribution, and trend, on which to base a listing rule.

Our Response: We are required to use the best available scientific and commercial information when listing a species under the Act. Published findings on wolverine populations and their genetic structure has been available for many years, although we acknowledge that information on wolverine numbers, population trends, and potential effects of loss of genetic diversity is limited. Our analysis included a thorough consideration of all available literature, peer review, public comment, and results of a scientific panel (Service 2014, entire). Based on our analysis, through this document, we withdraw the proposed rule to list the DPS of the North American wolverine occurring in the contiguous United States as a threatened species under the Act (78 FR 7864; February 4, 2013), as well as our associated proposed rule under section 4(d) of the Act contained in the proposed listing rule (78 FR 7864; February 4, 2013) and the proposed nonessential experimental population designation for the southern Rocky Mountains (78 FR 7890; February 4, 2013).

(30) *Comment:* Several commenters stated that the global climate models used to predict habitat impacts of climate change are not precise enough to be useful for that purpose.

Our Response: We have carefully reexamined all of the best available scientific data used in our proposed rule, and any information that has became available through the review process since the publication of the proposed rule. As explained in detail in this document, we concluded that the analyses in McKelvey *et al.* (2011) and other sources were not conducted at a fine enough scale to serve as the basis for having sufficient certainty about how climate change may impact wolverine habitat in the future. In addition, we have recognized substantial uncertainty exists regarding projections of future snowfall amounts and persistence in areas most important for crucial wolverine life stages (i.e., denning), and as well as the possible response of the DPS to effects of climate change in the future.

(31) *Comment:* There are alternative hypotheses to explain the distribution of wolverines that should be explored further.

Our Response: We agree that it is important to consider all potential factors that may constrain wolverine distribution. The Copeland *et al.* (2010) model focused on one hypothesis, spring snow persistence, to explain wolverine distribution. The model did not consider other factors such as land cover, topography, and the human footprint that appear to also influence primary wolverine habitat use (Inman *et al.* 2013; Fisher *et al.* 2013). Copeland himself (November 26, 2013; p. 2) stated his belief that there are other factors beyond snow that influence wolverine distribution. These considerations were part of the basis for our decision to withdraw the listing rule.

(32) *Comment:* One commenter questioned the evidence for the assumption in the proposed rule that predation is part of the reason for wolverines denning in deep snow.

Our Response: Predation as an explanation for wolverines denning in deep snow has been suggested by several wolverine experts, including Magoun and Copeland (1998), Copeland *et al.* (2010), and Inman *et al.* (2012, p. 638).Wolverine kits are vulnerable to predation by other wolverines and other predators while they are in the den (Persson *et al.* 2003, p. 24). Female wolverines often dig elaborate snow tunnels down to ground-level substructure, such as boulders or avalanche debris, to birth and raise kits. A reasonable explanation as to why they go to this effort is that kits need security from predators that such snow tunnels provide.

(33) *Comment:* Several commenters asserted that the proposed rule relies on inadequate science regarding genetic connectivity and effective population sizes in wolverines. They also claim that the proposed rule is inconsistent in applying genetic information to designating the DPS and the discussion of effective population size.

Our Response: We are required to use the best available scientific and commercial information when determining whether to list a species under the Act. We have found in this determination that genetic factors are not a threat to the DPS due to increasing populations. Although we did not use the lack of genetic contiguity between Canada and the United States wolverine population as justification for the DPS, we do recognize the apparent lack of gene flow across the international boundary.

(34) *Comment:* Several commenters said that because wolverines have persisted through past climate changes that were severe, they will persist through future changes as well.

Our Response: While we acknowledge that the wolverine and other species have persisted through past changes in climate, it does not automatically follow that the wolverine or other species will persist through future changes since the conditions concerning the status of the species, its habitat, and other relevant factors and their responses to such changes are unlikely to be identical to what was present in the past. In our analysis of the best available data concerning the wolverine DPS, there is significant evidence that the climate within the larger range of the wolverine is warming, affecting snow patterns and associated wolverine habitat. However, as described in this document, we currently have a relatively high degree of uncertainty about the likely response of wolverines to future changes.

(35) *Comment:* The Service should monitor wolverine populations and habitat to determine if climate change impacts actually occur before pursuing a listing based on a speculative threat.

Our Response: The Act requires that we make a listing determination based on the best scientific and commercial data available at the time of our decision. When evaluating population trends or the impacts of a particular threat, we must rely on the best available science, rather than speculation, to assess the future status of a species and to determine whether it meets the definition of an endangered or threatened species. As explained above, we have determined that the best available information suggests that climate change may affect habitats used by wolverines; however, the specific response or sensitivity of wolverines to these current and forecasted changes is uncertain at this time.

(36) *Comment:* Management of wolverines is similar in Canada and the United States. There is no reason to conclude that wolverines in these areas are discrete based on differences in management.

Our Response: Wolverines are managed by regulated harvest throughout western Canada and Alaska; in the lower 48 U.S. States, regulated wolverine harvest occurs only in Montana, and at a very low level (average harvest = 3.25 wolverines/year; Montana Department of Fish Wildlife and Parks 2010, pp. 8–11). In November 2012, a district court issued a restraining order blocking the opening of Montana's trapping season on wolverine; the season remains closed (Case No. BDV–2012–868). Thus, we conclude there are differences in management across the international boundary. Please refer to our December 14, 2010, 12-month petition finding (75 FR 78030) and our February 4, 2013, proposed rule to list the DPS (78 FR 7864) for a more robust discussion of our analysis of wolverine in the contiguous United States and our DPS Policy. However, as described in this document, we have concluded that this DPS does not warrant listing, and we are withdrawing our February 4, 2013, proposed rule to list the DPS of the North American wolverine occurring in the contiguous United States as a threatened species under the Act (78 FR 7864; February 4, 2013), as well as our associated proposed rule under section 4(d) of the Act contained in the proposed listing rule (78 FR 7864; February 4, 2013) and the proposed nonessential population designation for the southern Rocky Mountains (78 FR 7890; February 4, 2013).

(37) *Comment:* Several commenters noted that regulatory mechanisms to combat climate change do not exist; therefore, it is not appropriate to use this threat to justify a listing.

Our Response: Under the Act, regardless of whether regulatory mechanisms exist to address a particular threat, we cannot ignore that threat if it contributes to the basis for a determination that the species meets the Act's definition of an endangered or threatened species. As a hypothetical example, if a severe disease is placing a species at high risk of extinction and no regulatory mechanisms exist to combat the disease, we would not ignore the disease as part of the basis for a listing determination. Also, with regard to climate change, we consider the ongoing and reasonably likely effects of such changes and how those

effects relate to the status of a species; we do not make listing determinations based on climate change *per se.* For example, our decision to list the polar bear was based on the likely loss of sea ice habitat and related impacts to polar bears. While it may seem like a fine point that we focus on the effects of changes in climate rather than climate change *per se,* it is an important distinction. With regard to the wolverine DPS, we have determined that potential habitat impacts due to climate change are not a threat to the DPS such that the species meets the definition of an endangered or threatened species under the Act at this time. Therefore, an analysis of the existing regulatory mechanisms that address the effects of climate change is not necessary in this case.

(38) *Comment:* Multiple commenters noted that there are several datasets available that Copeland *et al.* (2010) did not consider and that including those in the analysis would likely change the outcome of our proposed rule.

Our Response: We acknowledge that some available datasets were left out of the Copeland *et al.* (2010) model. The authors also acknowledge that information on wolverine historical range in Europe and Asia is lacking. While we believe the model does provide valuable information on the correlation between wolverine and snow cover, these omissions limit the ability to provide a complete picture of available wolverine habitat. We incorporated a discussion of these limitations of the dataset into the text of this document.

(39) *Comment:* Several States commented that the analysis in Copeland *et al.* (2010) excluded data from wolverines in the far north for their year-round analysis of habitat use relative to their snow model. If they had included these animals from places where persistent spring snow was ubiquitous they would have found that they did not select for snow.

Our Response: The Copeland *et al.* (2010) paper addressed this issue, saying that in areas of the far north in arctic and sub-arctic conditions, wolverines are able to use the entire landscape and that therefore their model loses effectiveness for predicting wolverine habitat use. This is not an issue in the contiguous U.S., where wolverine habitat occurs at high elevations in temperate mountains. In these areas, the correlation between the bioclimatic envelope and wolverine habitat use and denning is quite close.

(40) *Comment:* Several States and commenters asserted that wolverines do not need deep snow until May 15 for thermal buffering because temperatures have moderated by then.

Our Response: We agree. We do not know exactly what the causal relationship is between spring snow and wolverine dens. Thermal buffering is a hypothesis, but has not yet been tested. Additionally, as mentioned above, the timing of den abandonment varies geographically and seems to coincide with spring thaw. Wolverines in Idaho appear to abandon den sites earlier (March–April) than in other areas studied, including Alaska and Norway (late April–early May). It appears possible that wolverines in the DPS area do not need snow until May 15.

(41) *Comment:* One State commented that climate change may benefit wolverines due to increased productivity in their habitats.

Our Response: Although this hypothesis could possibly be true, the best available information does not support or refute this hypothesis. Our withdrawal of the proposed listing rule is based upon the lack of information concerning the likely biological response of wolverines to the effects of climate change. We do not assert that wolverines are likely to benefit from climate change or its effects on habitat.

(42) *Comment:* Several States commented that wolverines have expanded their populations in the DPS over the last 100 years. Simultaneous to this expansion, climate warming has also been reducing snowpack in the DPS. This is inconsistent with the hypothesis that persistent spring snow is important to wolverines or that changes in persistent spring snow in the future are likely to adversely affect wolverines.

Our Response: Wolverines were likely extirpated from the entire contiguous United States in the first half of the 20th century due to unregulated trapping and predator control; populations have since recolonized from Canada and are currently expanding within the DPS area (refer to the on February 4, 2013 proposed rule at 78 FR 7864 for a more robust discussion of wolverine population status and distribution). We believe this recolonization and expansion is primarily due to changes in harvest and predator control practices. The best available information does not indicate that climate change effects have caused contraction of wolverine habitat in the DPS area at this time, and consequently wolverine growth and expansion has not ceased. It is likely that climate change will impact snowfall and snow persistence in the future, but we have no reliable information to suggest how wolverines in the DPS will respond to these changes.

(43) *Comment:* One State disagreed with our determination in the proposed rule that wolverine genetic variation is low, or lower than historical levels, in the northern Rocky Mountain wolverine population.

Our Response: Available evidence indicates that genetic diversity among wolverines in the DPS is lower than it is in the founding population in Canada (Schwartz *et al.* 2009, p. 3229). Wolverines in the contiguous United States are thought to be derived from a recent recolonization event after they were extirpated from the area in the early 20th century (Aubry *et al.* 2007, Table 1). Consequently, wolverine populations in the contiguous United States have reduced genetic diversity relative to larger Canadian populations as a result of founder effects or inbreeding (Schwartz *et al.* 2009, pp. 3228–3230). Such a result is not unexpected following recolonization by relatively few individuals and subsequent population growth. Whether the DPS may be suffering any negative effects as a consequence of lower genetic diversity in comparison to the Canadian population is unknown. While we acknowledge that the effect of small population size and low genetic diversity may become more significant if populations become smaller and more isolated, we are uncertain if and when this response might occur.

(44) *Comment:* Several States commented that there is insufficient evidence to conclude that there is a genetic break between the DPS and Canadian populations. Insufficient sampling in the area near the international boundary means that the precise location of any break that may exist is in question.

Our Response: We reviewed the best available information on this subject. States did not provide additional citations. The analysis in Schwartz *et al.* (2009) provided evidence that there is a lack of genetic connectivity between wolverine populations in the area near the international boundary. The reason for the apparent lack of connectivity is not known. The authors speculated that it may be related to heavy trapping pressure on the Canadian side of the boundary, but this hypothesis remains untested.

(45) *Comment:* Several commenters stated that hunting and trapping of species that prey on wolverines would benefit the DPS.

Our Response: It is possible that hunting and trapping benefit wolverines by reducing populations of predators that may occasionally kill wolverines.

The magnitude of this potential benefit, if it exists, is unknown.

(46) *Comment:* Multiple commenters and States thought that the listing proposal essentially dismissed habitat impacts resulting from land management decisions.

Our Response: The Service recognized and acknowledged the effects of land management activities, as well as recreation, infrastructure, and development, on the wolverine DPS. However, as we stated in the proposed listing rule, the scale at which these activities occur is relatively small compared to the average size of a wolverine's home range. For that reason, we concluded that land management decisions do not substantially impact the wolverine. After reviewing the best available information, we stand by this assessment.

(47) *Comment:* One commenter believed the wolverine does not qualify as a DPS because the population is not discrete, and loss of the subspecies in the contiguous United States would not represent a significant gap in relation to its entire range, which includes areas within the contiguous United States, Canada, and Alaska. The population and habitat area in the lower 48 States represent a small fraction of the entire range; meaning that, for the purposes of the Act, the wolverine is insignificant when compared to the entire North American subspecies.

Our Response: Please refer to our December 14, 2010, 12-month petition finding (75 FR 78030) and our February 4, 2013, proposed rule to list the North American wolverine (78 FR 7864) for a more robust discussion of our analysis of the wolverine in the contiguous United States and our DPS policy. We recognize that there may be differences of opinion on the definition of ''significant.'' However, for the reasons detailed in the February 4, 2013, proposed rule, we conclude both that the contiguous U.S. population of the wolverine is discrete and that the loss of that population would result a significant gap in the range of the taxon, in accordance with our DPS policy. However, as described in this document, we have concluded that this DPS does not warrant listing, and we are withdrawing our proposed rule to list the DPS.

(48) *Comment:* Several States commented that the determination that the wolverine population in the contiguous United States is discrete is arbitrary and without merit because the only regulatory mechanism that the Service concludes is lacking is one that exists internationally, that is, the current inability to regulate climate change. Otherwise, the regulatory mechanisms currently in place in the lower 48 U.S. States have been deemed by the Service to be adequate.

Our Response: Please refer to our December 14, 2010, 12-month petition finding (75 FR 78030) and our February 4, 2013, proposed rule to list the North American wolverine (78 FR 7864) for a detailed evaluation of the discreteness criterion for the contiguous U.S. population of the wolverine under our DPS policy. In accordance with that policy, we concluded that this population is discrete based on differences in control of exploitation and conservation status of the wolverine across the border between Canada and the United States.

(49) *Comment:* Many States and public commenters stated that instead of future predictions of threats, Service should rely on current population status.

Our Response: Listing decisions under the Act require that we synthesize current status with threat projections in the future to determine if the species is presently in danger of extinction (endangered) or is likely to become endangered in the foreseeable future (threatened). Following these statutory definitions, it follows that although an evaluation of current population status may be sufficiently informative as to whether a species meets the definition of endangered under the Act, an evaluation of whether a species may be threatened necessarily invokes additional mechanisms that allow us to project future scenarios for the species based on scientific data, to reasonably forecast the conservation status of the species within the foreseeable future.

(50) *Comment:* Several commenters said that the threat of poisoning from 1080 or M–44s should be thoroughly explored in the rule and a prohibition on incidental take from poisoning should be instituted.

Our Response: Wolverines in the contiguous United States were likely severely affected by predator poisoning campaigns of the early 20th century. Those types of widespread, indiscriminant, government-instituted campaigns intending to eliminate predators from the landscape no longer occur within the range of wolverines. Remaining predator control efforts are targeted and geographically constrained so as to target control where predators are particularly problematic for stock growers and to minimize potential poisoning of non-target species. There is no evidence that wolverine populations are currently being affected by poisoning from 1080 or M–44s. Therefore, the best available information does not indicate that poisoning is a threat to the DPS.

(51) *Comment:* Several commenters suggested that current wolverine population densities and population levels are far below historical densities and populations. Some also said that the Service should not speculate as to historical population numbers or densities.

Our Response: There is no reliable estimate for wolverine densities historically or presently. Current wolverine densities are naturally low in areas with wolverine populations, and near zero in areas that have not been recolonized by populations such as the southern Rocky Mountains and Sierra Nevada Range. Wolverine densities are always naturally low relative to most other species due to their need for large territories and their tendency to defend those territories from other wolverines. Listing under the Act is predicated not on population densities and size, but rather on whether the species (here DPS) meets the definition of endangered or threatened because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

(52) *Comment:* Several commenters said that mortality from collision with vehicles on roads is a threat.

Our Response: Wolverine mortality from collisions with vehicles has occurred in the contiguous United States, but at low levels. Wolverines use habitats that are not particulary conducive to roads or transportation corridors. Consequently, wolverines usually do not come into contact with high-traffic volume roads except in those areas where highways cross over mountain ranges, usually major passes. There have been recorded instances of wolverines being killed on roads in valleys between mountain ranges. These are likely the result of dispersal attempts by wolverines and appear to be rare occurrences. There is no evidence that this low level of effect is significant to the status of the DPS.

(53) *Comment:* One commenter stated that the Service should analyze the effects of trapping on wolverine habitat and that trapping itself modifies or destroys habitat.

Our Response: We cannot conclude that trapping modifies or destroys habitat. Trapping is a mortality factor but generally does not affect the ability

of habitat to provide the life-history requirements of wolverines, such as food and shelter. The habitat and its ability to support wolverines remains, but the animal is removed if it is trapped. The important point is not under what category a threat factor is considered, but that the effects of the threat factor are considered. The best available information does not indicate that impacts from trapping modify or destroy wolverine habitat.

(54) *Comment:* Several commenters said that we erred in the proposed listing rule by concluding that wilderness designation provides protection to wolverines from trapping. They said that trapping is allowed in wilderness areas, so they do not provide protection.

Our Response: Wilderness designations provide refuge from trapping by making access to wolverine habitat by trappers more difficult. Wolverine habitats tend to have very deep snow and cold temperatures during the trapping season. Most trappers access wolverines by motorized (snowmobile) transport. Motorized transport is prohibited in wilderness areas. This reduces, but may not eliminate, trapping in these areas, providing significant protection.

(55) *Comment:* One commenter wanted more explanation of why we concluded in the proposed rule that trapping was not a threat over most of the DPS.

Our Response: Targeted trapping of wolverines only occurs in Montana, and occurs at a low level that is compatible with the current population level. Montana is only a part of the DPS. Therefore, trapping is not a threat to the entire DPS.

(56) *Comment:* One commenter disagreed with our statement in the proposed rule that Montana has stopped trapping in isolated mountain ranges.

Our Response: The statement in the proposed rule is accurate as written. Montana has removed wolverine trapping from isolated mountain ranges in western Montana. The ranges cited in the comments are not isolated, but are located adjacent to other wolverine habitats.

(57) *Comment:* One commenter said that in contrast to the 2010 12-month petition finding, the proposed rule discusses the possible impacts of human activities very little. The proposed rule also suggests that research indicates that there is no effect of human activities, rather than that there is very little research on this factor.

Our Response: In the proposed listing rule (78 FR 7864; February 4, 2013), we reviewed the information, and consolidated the discussion of human activities because the lengthy discussion in the 12-month petition finding (75 FR 78030; December 14, 2010) did not conclude that there were significant threats from those activities. The proposed rule concluded that the best available scientific information does not indicate that a threat to the DPS currently exists from the impacts of human activities.

(58) *Comment:* Several commenters suggested that changes to snow structure caused by freeze/thaws that create hard surface on snow could increase competition or predation on wolverines by other carnivores.

Our Response: The commenters did not provide any citations with their comments. We have no information indicating whether such changes in snow structure are causing impacts to the wolverine.

(59) *Comment:* One commenter thought that the statement from the proposed rule that the current population levels in the contiguous United States may not be lower than those in the past is also incongruous with population densities in western Canada, where the population is vastly higher (15,000 to 19,000 individuals) than in the contiguous United States (USFWS 2013, p. 7869), despite being a slightly larger yet comparably-sized region.

Our Response: The reported numbers from Canada and Alaska are not population densities; they are population estimates. Densities are population per unit of area. The population densities for currently occupied areas in the DPS are not measurably different from those in adjacent Canada. Despite the two regions being roughly comparable in size, the DPS has much less wolverine habitat than Canada and Alaska, and the habitat that does exist occurs in semi-isolated patches at high elevations, whereas habitat in Canada and Alaska is much more extensive and well connected. This explains the difference in wolverine population numbers between the two areas historically.

(60) *Comment:* Several commenters said that other risk factors not considered threats should be considered cumulatively with climate change.

Our Response: We agree that threat factors must be considered cumulatively to determine if factors considered together may be a threat to the species. In the case of the wolverine DPS, in the proposed rule we concluded that trapping and the effects of small population size were threats to this growing population only cumulatively when considered with the projected effects of climate change on wolverine habitat. However, as described in this document, upon further consideration of the best available information, we have re-evaluated our determination on the effects of climate change on wolverine population persistence in light of new information presented below under Factor A. We now conclude that there is not sufficient information on the response of the wolverine DPS to the projected changes in climate and resulting impacts to habitat, and we do not find the effects of climate change to likely pose a risk of extinction to the DPS at this time. We find that absent a threat resulting from climate change, no other stressor rises to the level of a likely risk of extinction to the DPS, either individually or cumulatively, that results in the wolverine DPS meeting the definition of an endangered or threatened species under the Act.

(61) *Comment:* One commenter said that wolverine attraction to road kill is a risk that should be considered.

Our Response: Wolverines have been killed by automobiles on highways. It is uncertain whether road kill may have been a factor in some of these mortalities. We have no evidence that highway mortality is significant to the wolverine population or whether or not attraction to road kill is a significant contributor to mortality events. This hypothesis remains speculative until additional scientific evidence is obtained.

(62) *Comment:* One commenter opined that heavy recreational use does not occur in the central Idaho area where the recreation study (Heinemeyer *et al.* 2012) is occurring.

Our Response: The term ''heavy'' when used to describe recreational use is a subjective term. We consider some of the recreational use in the study area in central Idaho to be locally heavy. The scientists conducting the study consider the range of recreational use in central Idaho to be sufficient to detect effects on wolverines from recreation, if any.

(63) *Comment:* Many commenters took issue with our conclusions regarding winter recreation. Some thought that winter recreation is a threat. Others thought that the recreation study in Idaho could be interpreted to mean that there are significant effects to wolverines. Still others thought that the Service should only rely on peer-reviewed literature when assessing the effects of recreation on the DPS of wolverines.

Our Response: The best available information does not indicate that wolverines are significantly affected by winter recreation. Furthermore, the

question in the listing process is not whether there is any effect, but whether that effect rises to such a level of a threat to the DPS such that the DPS meets the definition of endangered or threatened now or in the foreseeable future. We find no evidence that winter recreation occurs on such a scale and has effects that cause the DPS to meet the definition of a threatened or endangered species. We continue to conclude that winter recreation, though it likely affects wolverines to some extent, is not a threat to the DPS.

(64) *Comment:* Several commenters suggested that changes in technology make access to wolverine habitat easier for snowmobilers. Others pointed out that Inman *et al.* (2013) says snowmobile use may affect wolverines.

Our Response: We agree that changes in technology increase access to wolverine habitat by snowmobilers and that winter recreation may affect wolverines. Significant effects to wolverines from winter recreation remain to be demonstrated scientifically. We do not agree that the available scientific information supports the conclusion that winter recreation is a threat to the DPS, for reasons discussed below under Factor A.

(65) *Comment:* One commenter wondered if there is there any information on wolf predation on wolverines and whether it might be significant to the listing decision.

Our Response: Wolves have been known to kill wolverines on occasion, but we are unaware of any information suggesting that wolf predation is a significant source of mortality for the DPS.

(66) *Comment:* Several commenters thought that immigration from Canada would bolster genetic diversity of wolverines in the DPS given that wolverines recolonized the DPS from Canada.

Our Response: It is possible that future immigration from Canada will provide for an increase in the genetic diversity of wolverines in the contiguous United States; however, data presented in Schwartz *et al.* (2009) suggest that wolverines are not presently moving between populations in the DPS and Canada with enough frequency to overcome the effects of genetic drift.

(67) *Comment:* Several commenters and States thought that wolverines may be able to adapt to earlier snowmelt by denning earlier.

Our Response: It is possible that wolverines may be more adaptable than the currently available scientific information would suggest. Earlier denning has not been reported for wolverines.

(68) *Comment:* The listing proposal fails to conduct an independent assessment of each of the four possible listing options: species, DPS, significant portion of range of the species, and significant portion of range of the DPS.

Our Response: In writing the proposed listing rule, we considered all of the possible listing options, including significant portion of the range (please refer to *Significant Portion of the Range* analysis, below).

(69) *Comment:* Several commenters suggested that small effective population size for wolverines in the northern Rocky Mountains is a significant threat regardless of climate change.

Our Response: In a static population, small effective population size may be a conservation concern because it can lead to loss of genetic diversity. In the case of the wolverine DPS, we expect that continued population growth is likely to ameliorate the effects of small effective population size by increasing the wolverine population and providing for better connectivity between subpopulations. Therefore, small effective population size is not a threat, but rather a risk factor that may resolve itself as population growth continues.

(70) *Comment:* Several States commented that there is no provision in the Act to list a DPS of a subspecies; therefore the DPS is invalid.

Our Response: We continue to support recognition of the wolverine DPS. The Act provides for recognition of DPSs for vertebrate species. The word ''species'' in that context refers to species or subspecies. Furthermore, our 1996 Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act states: ''The Services maintain that the authority to address DPS's extends to species in which subspecies are recognized, since anything included in the taxon of lower rank is also included in the higher ranking taxon'' (61 FR 4722, p. 4724; February 7, 1996). Therefore, it is appropriate to recognize the wolverine DPS as a listable entity.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination. Each of these factors is discussed below.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Under Factor A, we will discuss a variety of impacts to wolverine habitat including: (1) Effects of climate change, (2) human use and disturbance, (3) dispersed recreational activities, (4) infrastructure development, (5) transportation corridors, and (6) land management. Many of these impact categories overlap or act in concert with each other to affect wolverine habitat. Climate change effects are discussed under Factor A because although increased temperatures due to climate change may affect wolverines directly by creating physiological stress, the primary potential impact of climate change on wolverines is thought to be through changes to the availability and distribution of wolverine habitat.

Reduction in Habitat Due to Climate Change

Our analyses under the Act include consideration of the likely effects of ongoing and projected changes in climate. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). ''Climate'' refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements, although shorter or longer periods also may be used (IPCC 2013, p. 1450). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (e.g., temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2013, p. 1450). Various types of changes in climate can have direct or indirect effects on species. These effects may be positive, neutral, or negative and they may change over time, depending on the species and other relevant considerations, such as the effects of interactions of climate with other variables (e.g., habitat fragmentation) (IPCC 2007, pp. 8–14, 18–19).

We recognize that there are scientific uncertainties on many aspects of

climate change, including the role of natural variability in climate. In our listing proposal (78 FR 7874–7877), we relied both on synthesis documents (e.g., IPCC 2007; Karl *et al.* 2009) that present the consensus view of a very large number of experts on climate change from around the world, and on analyses that relate the effects of climate change directly to wolverines (Brock and Inman 2007, pers. comm.; Gonzalez *et al.* 2008, entire; Brodie and Post 2009, entire; Peacock 2011, entire; McKelvey *et al.* 2011, entire; Johnston *et al.* 2012, entire). We argued that due to lack of downscaling (Peacock 2011), failure to consider both temperature and precipitation (Brock and Inman 2007, pers. comm.; Gonzalez *et al.* 2008), limited analysis area (Johnson *et al.* 2012), and inappropriate inferences from harvest data (Brodie and Post 2010), many analyses do not represent the best available science. In our proposed listing rule, we identified McKelvey *et al.* (2011) as the best scientific information available regarding impacts of climate change to wolverine habitat because the authors incorporated both temperature and precipitation, and downscaled analyses to reflect the regional climate patterns and topography found within the range of wolverines in the contiguous United States.

While we still agree that McKelvey *et al.* (2011) is the most sophisticated analysis of impacts of climate change at a scale specific to the range of the wolverine, science panel members (Service 2014, p. 29), public comments, and recent scientific information (Potter *et al.* 2013, entire; Franklin *et al.* 2012, entire) emphasize limitations inherent in downscaled climate models and the importance of understanding the effect of climate-data spatial resolution on wolverine viability in complex terrain. Downscaling techniques improve understanding of climate at smaller, regional scales compared to Global Climate Models, but their spatial resolution may still be inadequate to describe the variability of microclimates in which organisms live (Potter *et al.* 2013, p. 2935). Franklin *et al.* (2012, pp. 478–482) show that there can be large differences between suitable habitats predicted from coarse versus fine-scale climate models, and concluded that, on average, a scale approximately twice as fine as that used in McKelvey *et al.* (2011, entire) (280 m vs. 500 m) is adequate, and that in rugged terrain even finer models (e.g., 10–30 m) may be needed to represent significant microclimates. Potter *et al.* (2014, p. 2934) propose that the ideal spatial resolution is related to organismal body size and lies between 1 and 10 times the length or height of the organism. McKelvey *et al.* (2011, p. 2895) reached similar conclusions about their own modeling efforts: ''although wolverine distribution is closely tied to persistent spring snow cover (Copeland *et al.* 2010), we do not know how fine scale changes in snow patterns within wolverine home range may affect population persistence.'' We concur; an improved understanding of how microclimatic variation alters the habitat associations of wolverines at fine spatial scales will be useful in understanding climate impacts on wolverine habitat.

Additionally, great difficulty still exists in predicting changes in precipitation with climate models, especially compared to the more confident predictions for temperature (Torbit 2014, pers. comm.). Newer modeling techniques suggest that higher elevations could maintain more snow than previously thought and possibly even receive more snow than historical records show due to climate change (Torbit 2014, pers. comm.; Ray *et al.* 2008). While these contemporary techniques have not been applied to the northern portions of the proposed wolverine DPS (78 FR 7873), and much of the high elevation wolverine range is currently unoccupied, they demonstrate that the science associated with climate models is continuing to change, highlighting the uncertainty of our conclusions in the proposed rule (78 FR 7877). This new information highlighting the importance of scale and use of modern, quantitative techniques to evaluate uncertainty in climate assessments have prompted us to re-evaluate our original conclusions in the proposed rule (78 FR 7874–7876) that wolverine habitat will decline at the predicted rates suggested in McKelvey *et al.* (2011). Modern assessment techniques that include slope, aspect, and other topographic information are now available and can be used to predict precipitation, including snowfall at finer scales that could be more aligned with existing or potential wolverine habitat (Torbit 2014, pers. comm.; Ray *et al.* 2008, pp. 17–23; Torbit 2014, pers comm). Based upon our re-evaluaton of the best scientific data available, we no longer find that the existing scientific information supports our conclusions in the proposed rule (78 FR 7874–7876) that climate change will result in a 31 percent (mid-century) to 63 percent (end of century) reduction in wolverine habitat in the foreseeable future.

Climate Effects to Wolverines

We based our proposal (78 FR 7874–7877) on the best available data at the time, which we intitially interpreted as demonstrating that wolverines require deep snow persisting through the denning period to successfully live and reproduce, and that reduction of this habitat feature would proportionally reduce wolverine habitat, or to an even greater extent if habitat reduction involved increasing fragmentation. We analyzed the effects of climate change on wolverines through three primary mechanisms: (1) Reduced snowpack and earlier spring runoff, which we argued would reduce suitable habitat for wolverine denning; (2) increase in summer temperatures beyond the physiological tolerance of wolverines; and (3) ecosystem changes due to increased temperatures, which we reasoned would move lower elevation ecosystems to higher elevations, thereby eliminating high-elevation ecosystems on which wolverines depend and increasing competitive interactions with species that currently inhabit lower elevations. These mechanisms would tend to push the narrow elevational band that wolverines use into higher elevation, and due to the conical structure of mountains, this upward shift would result in reduced overall suitable habitat for wolverines.

Deep Snow and Denning

The literature generally does not reflect any studies that tested whether wolverines have an obligate relationship with deep and/or contiguous snow cover; therefore, we convened an expert science panel to provide further guidance specifically on this issue (Service 2014, entire). Expertise included climatologists and remote sensing experts, biologists, and ecologists. Panelists strongly supported an obligate relationship between wolverines and deep snow at the scale of the den site, expressed uncertainty in the relationship between wolverines and deep snow at the scale of the home range and DPS' range, and also expressed uncertainty in the relationship between wolverines and contiguous snow at the home range and DPS range scales (Service 2014, pp. 8–13). Therefore, based on the literature (Pulliainen 1968; Copeland 1996; Magoun and Copeland 1996; Magoun and Copeland 1998; Banci 1994; Inman *et al.* 2007; Copeland *et al.* 2010), the opinion of expert panelists, and the peer reviews, it is reasonable to believe that wolverines select for den sites likely to have deep snow that will persist until some point into the spring.

The primary hypothesis put forward in the proposed listing rule (78 FR 7875) is that a loss of areas with persistent spring snow cover will result in a loss of potential wolverine den sites, or failure of den sites, negatively impacting future abundance and trend. Den sites are correlated with snow (Copeland *et al.* 2010, entire), and experts in the science panel expressed an opinion that wolverines require deep snow for den sites. However, the predictions from McKelvey *et al.* (2011) about future habitat loss rely on the Copeland model (Copeland *et al.* 2010, entire) to describe what habitat is and then to predict how much of it will be lost. The habitat described in the Copeland model includes areas that retained snow until May 15, in as few as 1 of 7 years. In other words, if an area retained snow in only 1 of 7 years, it was still included in the model describing habitat, and 97.9 percent of the sample of den sites fell within this area. That means that some proportion of those den sites fell within an area that did not retain snow each year. This brings into question the reliability of the conclusion that snow persisting until May 15 is a necessary condition for wolverine reproduction.

We are aware of no evidence that den sites are currently scarce or lacking, or that they currently limit wolverine reproduction. In other words, even if some den sites were to be lost as a result of climate change, due to the expansive size of female wolverine home ranges, it is likely that many potential additional den sites would remain available. Further, we have no information that we could use to predict at what level of reduced spring snow coverage den sites would become limiting. Inman *et al.* (2013) estimated available habitat capacity in the U.S. to be approximately 644 wolverines (95 percent CI = 506–1881), and that current population size is currently approximately half of capacity. This estimated current abundance level (322) is similar to our rough estimate of population abundance of 250–300 wolverines in our proposed listing rule. The current estimated abundance level, significantly below estimated carrying capacity for a population that is still increasing, suggests that den sites are likely not currently limiting wolverine reproduction and population abundance.

We do not appear to know at this point with any reliability what the causal relationship is between the feature of deep persistent spring snow and wolverine dens (Service 2014, pp. 10, 28–29); that is, we do not understand why wolverines appear to require deep persistent spring snow for denning. Several hypotheses exist to explain the correlation between den sites and snow, such as den structure, food refrigeration, security from predators, or a thermal buffer for kits in the den, but these hypotheses have not been tested. All of these hypotheses seem possible and worth testing, but without such biological information demonstrating the causal mechanism, it is difficult to determine beyond speculation if, and how soon, the effects of climate change (e.g., earlier snowmelt) may influence or limit availability of den sites, habitat, and ultimately wolverine abundance, trend, and viability into the future.

Only two studies have investigated hypotheses regarding potential limiting factors for wolverines. Persson (2005) tested the hypothesis that wolverine reproduction was affected by winter food availability. He found that provision of additional food resources to wolverines, when compared to a control group not receiving supplemental food, resulted in higher reproduction. He suggests that female wolverine reproduction is determined by their condition in winter, which is determined by past year's reproductive costs and food availability. In his comments on the proposed listing rule, Copeland (November 26, 2013, p. 2) also touched on food availability as the limiting factor as he stated his belief that wolverine densities are highly variable and tied to food availability. He points to current differences in population densities between Glacier National Park and central Idaho that he believes are most likely related to food availability. He hypothesized that Glacier Park provides a year-round higher availability of carrion and therefore higher densities of wolverines.

In summary, the pertinent question that remains is if and when a decrease in deep, persistent spring snow will limit the availability of den sites, therefore causing a population decline in the future. Available information does not yet allow us to predict if and when that may occur.

Year-Round Relationship Between Wolverine Habitat and Persistent Snow Cover

Copeland *et al.* (2010) estimated persistent spring snow cover (April 24 to May 15 in at least 1 of 7 years during the period from 2000 to 2006, Copeland *et al.* (2010, p. 235)) using MODIS satellite data, and the resulting mapped area represents their bioclimatic model describing wolverine habitat (Copeland *et al.* 2010, Figure 1). They indicated that of the total 562 dens from North America, Finland, Norway, and Sweden, 97.9 percent of den sites occurred in pixels that were snow covered through May 15 in at least 1 of the 7 years (that is, they were within the modeled habitat). Their results indicated that not all, but 95 percent of summer and 86 percent of winter telemetry locations of wolverine, were within the modeled habitat area they described as having persistent deep snow cover.

However, the location dataset relies heavily on data collected in Scandinavia and does not consider several available datasets, such as trapping locations, location records from States and provinces, and telemetry data from the eastern Canadian provinces. In their comments, the State of Idaho indicated that only 68.6 percent of Idaho's verified wolverine observations (312 of 415) were within Copeland *et al.*'s (2010) habitat model (Idaho Fish and Game Comments, November 25, 2013, p. 2). Recent publications have suggested that factors beyond those included by Copeland *et al.* (2010) such as land cover (e.g., vegetative type), topography, human footprint, and snow depth should be incorporated into predictive models to accurately describe wolverine habitat because these factors appear to also influence primary wolverine habitat use (Inman *et al.* 2013, p. 278; Fisher *et al.* 2013, p. 712). These publications appear to support the idea that wolverines generally use areas of higher elevation; steeper terrain; more snow; fewer roads; less human activity; and, generally, snow cover persisting into the spring. Note, however, that Inman *et al.* (2013, p. 278) used snow cover on April 1, not snow cover until May 15, as a variable in their best-fitting model. Lastly, Copeland himself (November 26, 2013, p. 2) stated his belief that there are other factors beyond snow that influence wolverine distribution. Taken together, the available body of literature, our peer review, the science panel (Service 2014, entire), and public comment appear to indicate that: (1) Wolverines use areas with deep snow; (2) wolverines are occasionally observed outside of the area that has snow until May 15; (3) areas were included in the Copeland *et al.* (2010) predictive habitat model that may have had May 15 snow in as little as 1 of 7 years studied; and (4) factors other than snow cover on May 15 may also influence wolverine habitat use.

McKelvey *et al.* (2011, Figure 4) suggested that wolverine habitat in the contiguous United States, which currently supports approximately 250 to 300 wolverines, is shrinking and will likely continue to shrink and become increasingly fragmented with increased

climate warming. They projected a 31 percent in habitat loss throughout the range of the DPS by the time interval centered on 2045 (2030–2059). That loss expands to 63 percent of wolverine habitat by the time interval centered on 2085 (2070 to 2099). In our proposed listing rule, we reasoned that due to the spatial needs of wolverines and the limited availability of suitable wolverine habitat in the contiguous United States, this projected habitat loss would be likely to result in a loss of wolverine numbers that is greater than the overall loss of habitat area. However, upon reconsideration of the best available information, given our uncertainty in the relationship between wolverines and snow, we conclude it is not clear that these predictions of snow loss represent an equivalent loss of habitat. That is, while it may be likely that habitat will decrease over time due to earlier snow melt, if wolverines also use areas outside of the area covered with snow until May 15, this reduction in snow cover may not equate linearly to an equivalent loss of wolverine habitat; thus, McKelvey *et al.* (2011) may overestimate the loss of wolverine habitat (Franklin *et al.* 2013, p. 481).

Furthermore, based on our own calculations, given average home range sizes of male and female wolverines, the predicted habitat remaining after 2085 (McKelvey *et al.* 2010) could support 344 (95 percent CI: 250–421) wolverines (versus the current estimate of 250–300) in the contiguous United States, with the bulk (283; 95 percent CI: 110–347) of individuals estimated in the Northern Rocky Mountains in 2070–2099. These estimates do not include possible additional occupancy of potentially important wolverine habitat in the Sierra Nevada Mountains and portions of Oregon, which were beyond the geographic scope of the McKelvey *et al.'*s (2011) analysis. In other words, even under future conditions of projected habitat loss, we estimate there would be sufficient habitat available in the United States to potentially continue supporting wolverine populations at roughly the same level of abundance as at present. Thus, even if future populations were potentially limited by available habitat for future growth, the data do not suggest that the population of wolverines in the contiguous United States would necessarily be forced into decline by loss of habitat. In addition, as discussed above, if the obligate relationship with deep snow is only at the den site and not across the overall range of a wolverine and the DPS in general, specific snow variation due to elevation and topography also calls into question the conclusion that overall snow loss across the range of the DPS will equate to a specific loss of wolverine habitat.

Our proposed listing rule also discussed the consequences of habitat patches becoming progressively isolated from each other due to climate change (78 FR 7876). We concluded that reduced connectivity to other subpopulations could increase the likelihood of subpopulations lost due to demographic stochasticity, impairing the functionality of the wolverine metapopulation in the contiguous United States. McKelvey *et al.* (2011) concluded that continued warming trends may create small and isolated populations, among which the energetic costs of traveling will be high. However, they also stated that while contiguous areas of spring snow cover are predicted to become smaller and more isolated over time, large (>2000 km^2) contiguous areas of wolverine habitat are predicted to persist within the study area throughout the 21st century for all model projections (McKelvey *et al.* 2011, pp. 2992, 2994). By the late 21st century, their dispersal modeling predicts that habitat isolation at levels associated with genetic isolation of populations becomes widespread.

Currently available information indicates that wolverines are known to travel long distances through anthropogenically altered terrain, and habitats that are otherwise unsuitable for long-term survival (Moriarty *et al.,* entire; Inman *et al.* 2009, pp. 22–28); in fact, this propensity was cited as complicating our analysis of present and past range (78 FR 7869). Wolverines are able to successfully disperse between habitats, despite the level of development that is currently taking place in the current range of the DPS (Copeland 1996, p. 80; Copeland and Yates 2006, pp. 17–36; Inman *et al.* 2007a, pp. 9–10; Pakila *et al.* 2007, pp. 105–109; Schwartz *et al.* 2009, Figures 4, 5). In recent years, individual wolverines have been documented in Colorado (2010), the Sierra Nevada range in California (2008), and the Uinta Range of Utah and Wyoming (2014), indicating some dispersal to known unoccupied range is occurring, and quite likely necessitated travel through lower elevation areas that do not retain deep snow. Although most studies document greater dispersal distances for males than females (Hornocker and Hash 1981, p. 1298; Banci 1994, pp. 117–118; Moriarty *et al.* 2009, entire; Inman *et al.* 2009, pp. 22–28; Brian 2010, p. 3; Copeland and Yates 2006, Figure 9), Vangen *et al.* (2001, p. 1644) found that both males and females are capable of long-distance dispersal. One hundred percent of males and 69 percent of females dispersed, with average dispersal distances for males of 51 ± 30km (range = 11–101 km) and 60 ± 48 km (range = 15–178 km) for females, although differences between males and females were not significant. Vangen *et al.* (2001, p. 1647) reflect on other dispersal distances reported in the literature from Idaho (two males dispersed 16 and 199 km; Copeland 1996) and Alaska (one male dispersed 378 km; Gardner 1985) and concluded that both sexes have the capacity to establish themselves far away from their natal areas, thereby ensuring recolonization and gene flow between subpopulations. Inman *et al.* (2013, p. 284), however, suggest that female long-distance dispersal is likely to be very infrequent.

Given the available body of literature, the proposed listing rule (78 FR 7864; February 4, 2013), science panel (Service 2014, entire), and peer review, it is reasonable to predict that if observed warming trends (Hamlet and Lettenmaier 1999, p. 1609; Brown 2000, p. 2347; Mote 2003, p. 3–1; Christensen *et al.* 2004, p. 347; Knowles *et al.* 2006, pp. 4548–4549) continue within the larger range of wolverine, and areas with deep snow become smaller and more isolated, connectivity and genetic exchange among wolverine populations will decrease over time. At the same time, however, as discussed above, relatively large areas of wolverine habitat are predicted to persist throughout the 21st century for all model projections, and wolverines are capable of traversing great lengths, thus ameliorating the potential negative consequences of increasing distances between areas of suitable habitat. Therefore, as discussed above, with such uncertainty in wolverine response to changes predicted association with climate modeling, we do not know if and to what extent genetic exchange will be limited and in what timeframe. Furthermore, the best available information does not indicate that climate change effects have hindered population growth and expansion, or caused any contraction of habitat at this time (Inman *et al.* 2013, p. 277).

We acknowledged in our proposed listing rule (78 FR 7868; February 4, 2013), that with no systematic census across the range of the DPS in the United States, the current population level of wolverines is not known with certainty. As we stated in the proposal, our best estimate of current population abundance was based on knowledge of occupied habitat and average densities: approximately 250 to 300 wolverines in

the lower 48 States. Since the proposed listing rule was published, Inman *et al.* (2013) published an estimated available habitat capacity to be approximately 644 wolverines (95 percent CI = 506–1881), and estimated that the current population size in the contiguous United States is currently approximately half of capacity (in other words, roughly 322 individuals), and these are believed to be expanding in number and range (Aubry *et al.* 2007, p. 2151). Population growth and expansion has been documented in the North Cascades and Northern Rocky Mountains (78 FR 7881–7872), and as has been noted above, individuals have successfully dispersed to Colorado, California and Utah. This estimated current abundance level (322) is similar to our rough estimate of population abundance of 250–300 wolverines in our proposed listing rule. Accordingly, our conclusion in the proposed rule (78 FR 78049) that climate change has likely already reduced the overall areal extent and distribution of wolverine habitat seems largely speculative. While one could conjecture that dispersers to the southern portion of the DPS are occurring due to habitat loss in the northern part of the DPS, one could just as easily conclude that these dispersers are the result of an increasing population with dispersers looking to colonize largely unoccupied habitat. This consideration, coupled with the results of the Inman *et al.* (2013) publication indicating that available habitat could support a population in the United States twice as large as that at present, suggests that there is no evidence of habitat contraction at this time due to climate change.

Finally, our proposal suggested that the projected increase in summer temperatures and elimination of high-elevation ecosystems on which wolverines depend may negatively impact wolverines. We reiterate our earlier discussion of the limitations and uncertainty inherent in downscaled climate models. Available information suggests that climate changes may indeed affect wolverine habitat; however, the specific response or sensitivity of the wolverines to these current and forecasted changes is sufficiently uncertain at this time, such that we cannot reasonably project the future conservation status of the DPS based on any such changes that may occur.

Summary of Impacts of Climate Changes

There is significant evidence that the climate within the larger range of the wolverine is warming, affecting snow patterns and associated wolverine habitat. The biological response of wolverine populations to such changes, however, cannot reasonably be deduced with an acceptable degree of certainty. At this time, we do not know how the effects of climate change will impact wolverine populations for the following reasons:

(1) Wolverines are believed to be expanding both within the area currently inhabited by wolverines as well as into suitable habitat not currently occupied and/or occupied with a few individuals. Recent evidence suggests that there is suitable habitat available within the contiguous United States to support a wolverine population twice as large as that at present. Even under conditions of future reduced snowpack as a consequence of climate change, sufficient habitat will likely remain to maintain the wolverine population at the current level of abundance.

(2) There is strong support for the existence of an obligate relationship between wolverines and deep spring snow at the den site; however, available information suggests that den sites are not currently limiting wolverines, and we do not have sufficient information to predict if and when any limitation will occur in the future. Additionally, support for the obligate relationship between wolverine and deep snow at an individual wolverine's home range or the DPS' range in general is lacking. That is, we do not have sufficient information to suggest that deep snow is required by wolverines throughout their home ranges, beyond the level of the individual den site.

(3) We do not have sufficient information to understand the specific response of wolverines to future effects of changes in climate. Although we do not question that climate change is likely to alter the habitats utilized by wolverines to some degree, we have no data to inform us as to the likely biological response of wolverine populations to those habitat changes, and, most germane for the purposes of the Act, no data to reliably suggest that the anticipated changes are such that the viability of wolverine populations in the contiguous United States will be at risk.

Therefore, based on our analysis of the best available scientific information, we do not find the effects of climate change to likely place the wolverine DPS in danger of extinction in the foreseeable future and therefore meeting the definition of a threatened species under the Act.

Habitat Impacts Due to Human Use and Disturbance

Because wolverine habitat is generally inhospitable to human use and occupation and most wolverine habitat is also federally managed in ways that must consider environmental impacts, wolverines are somewhat insulated from impacts of human disturbances from industry, agriculture, infrastructure development, or recreation. Human disturbance in wolverine habitat in the contiguous United States has likely resulted in the loss of some minor amount of wolverine habitat, although this loss has not yet been quantified. Sources of human disturbance to wolverines has been speculated to include winter and summer recreation, housing and industrial development, road corridors, and extractive industry (such as logging or mining). In the contiguous United States, these human activities and developments sometimes occur within or immediately adjacent to wolverine home ranges, such as in alpine or boreal forest environments at high elevations on mountain slopes. They can also occur in a broader range of habitats that are occasionally used by wolverines during dispersal or exploratory movements—habitats that are not suitable for the establishment of home ranges and reproduction.

Little is known about the behavioral responses of individual wolverines to human presence, or about the DPS' ability to tolerate and adapt to repeated human disturbance. Some hypothesize that disturbance may reduce the wolverine's ability to complete essential life-history activities, such as foraging, breeding, maternal care, routine travel, and dispersal (Packila *et al.* 2007, pp. 105–110). However, wolverines have been documented to persist and reproduce in areas with high levels of human use and disturbance including developed alpine ski areas and areas with motorized use of snowmobiles (Heinenmeyer 2012, entire). This suggests that wolverines can survive and reproduce in areas that experience human use and disturbance. How or whether effects of disturbance extend from individuals to characteristics of subpopulations and populations, such as vital rates (e.g., reproduction, survival, emigration, and immigration) and gene flow, and ultimately to wolverine population or metapopulation persistence, remains unknown at this time.

Wolverine habitat is characterized primarily by spring snowpack, but also by the absence of human presence and development (Hornocker and Hash 1981, p. 1299; Banci 1994, p. 114; Landa

et al. 1998, p. 448; Rowland *et al.* 2003 p. 101; Copeland 1996, pp. 124–127; Krebs *et al.* 2007, pp. 2187–2190). This negative association with human presence is sometimes interpreted as active avoidance of human disturbance, but it may simply reflect the wolverine's preference for cold, snowy, and high-elevation habitat that humans avoid. In the contiguous United States, wolverine habitat is typically associated with high-elevation (e.g., 2,100 m to 2,600 m (6,888 ft to 8,528 ft)) subalpine forests that comprise the Hudsonian Life Zone (weather similar to that found in northern Canada), environments not typically used by people for housing, industry, agriculture, or transportation. However, a variety of activities associated with extractive industry, such as logging and mining, as well as recreational activities in both summer and winter are located in a small amount of occupied wolverine habitat.

For the purposes of this determination, we analyze human disturbance in four categories: (1) Dispersed recreational activities with primary impacts to wolverines through direct disturbance (e.g., snowmobiling and heli-skiing); (2) disturbance associated with permanent infrastructure, such as residential and commercial developments, mines, and campgrounds; (3) disturbance and mortality associated with transportation corridors; and (4) disturbance associated with land management activities, such as forestry or fire/fuels reduction activities. Overlap between these categories is extensive, and it is often difficult to distinguish effects of infrastructure from the dispersed activities associated with that infrastructure. However, we conclude that these categories account for most of the human activities that occur in occupied wolverine habitat.

Dispersed Recreational Activities

Dispersed recreational activities occurring in wolverine habitat include snowmobiling, heli-skiing, hiking, biking, off- and on-road motorized use, hunting, fishing, and other uses.

One study documented (in two reports) the extent that winter recreational activity spatially and temporally overlapped modeled wolverine denning habitat in the contiguous United States (Heinemeyer and Copeland 1999, pp. 1–17; Heinemeyer *et al.* 2001, pp. 1–35). This study took place in the Greater Yellowstone Area (GYA) in an area of high dispersed recreational use. The overlap of modeled wolverine denning habitat and dispersed recreational activities was extensive. Strong temporal overlap existed between snowmobile activity (February–April) and the wolverine denning period (February–May). During 2000, six of nine survey units, ranging from 3,500 to 13,600 (ha) (8,645 to 33,592 (ac)) in size, showed evidence of recent snowmobile use. Among the six survey units with snowmobile activity, the highest use covered 20 percent of the modeled denning habitat, and use ranged from 3 to 7 percent over the other survey units. Snowmobile activity was typically intensive where detected.

Three of nine survey units in this study showed evidence of skier activity (Heinemeyer and Copeland 1999, p. 10; Heinemeyer *et al.* 2001, p. 16). Among the three units with activity, skier use covered 3 to 19 percent of the survey unit. Skiers also intensively used the sites they visited. Combined skier and snowmobile use covered as much as 27 percent of potential denning habitat in one unit where no evidence of wolverine presence was detected. We conclude from this study that in some areas, high recreational use may coincide substantially with occupied wolverine habitat. The authors of the study cited above chose the study area based on its unusually high level of motorized recreational use. Although we do not have information on the overlap of wolverine and winter recreation in the remaining part of the contiguous U.S. range, it is unlikely that any of the large areas of wolverine habitat such as the southern Rocky Mountains, Northern Rocky Mountains, GYA, or North Cascades get the high levels of recreational use seen in the portion of the GYA examined in this study across the entire landscape. Rather, each of these areas has small (relative to wolverine home range size) areas of intensive recreational use (ski resorts, motorized play areas) surrounded by a landscape that is used for more dispersed recreation such as backcountry skiing or snowmobile trail use.

Although we can demonstrate that recreational use of wolverine habitat is heavy in some areas, we do not have any information to suggest that these activities have negative effects on wolverines. No assessments of anthropogenic disturbance on wolverine den fidelity, food provisioning, or offspring survival have been conducted. Disturbance from foot and snowmobile traffic associated with historical wolverine control activities (Pulliainen 1968, p. 343), and field research activities, have been purported to cause maternal females to abandon natal dens and relocate kits to maternal dens (Myrberget 1968, p. 115; Magoun and Copeland 1998, p. 1316; Inman *et al.* 2007c, p. 71). However, this behavior appears to be rare, even under intense disturbance associated with capture of family groups at the den site (Persson *et al.* 2006, p. 76), and other causes of den abandonment may have acted in these cases. Preliminary results from an ongoing study on the potential impacts of winter recreation on wolverines in central Idaho indicate that wolverines are present and reproducing in this area in spite of heavy recreational use, including a developed ski area; dispersed winter and summer recreation; and dispersed snowmobile use (Heinemeyer *et al.* 2012, entire). The security of the den and the surrounding foraging areas (i.e., protection from predation by carnivores) is an important aspect of den site selection. Abandonment of natal and maternal dens may be a preemptive strategy that females use in the absence of predators (i.e., females may abandon dens without external stimuli), as this may confer an advantage to females if prolonged use of the same den makes that den more evident to predators. Evidence for effects to wolverines from den abandonment due to human disturbance is lacking. The best scientific information available does not substantiate dispersed recreational activities as a threat to wolverine.

Most roads in wolverine habitat are low-traffic volume dirt or gravel roads used for local access. Larger, high-volume roads are dealt with below in the section ''Transportation Corridors.'' At both a site-specific and landscape scale, wolverine natal dens were located particularly distant from public (greater than 7.5 km (4.6 mi)) and private (greater than 3 km (1.9 mi)) roads (May 2007, pp. 14–31). Placement of dens away from public roads (and away from associated human-caused mortality) was also a positive influence on successful reproduction. It is not known if the detected correlation is due to the influence of the roads, but we find it unlikely that wolverines avoid the type of low-use forest roads that generally occur in wolverine habitat. Other types of high-use roads are rare in wolverine habitat and are not likely to affect a significant amount of wolverine habitat (see ''Transportation Corridors'' section, below).

Infrastructure Development

Infrastructure includes all residential, industrial, and governmental developments, such as buildings, houses, oil and gas wells, and ski areas. Infrastructure development on private lands in the Rocky Mountain West has been rapidly increasing in recent years

and is expected to continue as people move to this area for its natural amenities (Hansen *et al.* 2002, p. 151). Infrastructure development may affect wildlife directly by eliminating habitats, or indirectly, by displacing animals from suitable habitats near developments.

Wolverine home ranges generally do not occur near human settlements, and this separation is largely due to differential habitat selection by wolverines and humans (May *et al.* 2006, pp. 289–292; Copeland *et al.* 2007, p. 2211). In one study, wolverines did not strongly avoid developed habitat within their home ranges (May *et al* 2006, p. 289). Wolverines may respond positively to human activity and developments that are a source of food. They scavenge food at dumps in and adjacent to urban areas, at trapper cabins, and at mines (LeResche and Hinman 1973 as cited in Banci 1994 p. 115; Banci 1994, p. 99). Based on the best available science, we conclude that wolverines do not avoid human development of the types that occur within suitable wolverine habitat.

There is no evidence that wolverine dispersal is affected by infrastructure development. Linkage zones are places where animals can find food, shelter, and security while moving across the landscape between suitable habitats. Wolverines prefer to travel in habitat that is most similar to habitat they use for home-range establishment, i.e., alpine habitats that maintain snow cover well into the spring (Schwartz *et al.* 2009, p. 3227). Wolverines may move large distances in an attempt to establish new home ranges, but the probability of making such movements decreases with increased distance between suitable habitat patches, and the degree to which the characteristics of the habitat to be traversed diverge from preferred habitat in terms of climatic conditions (Copeland *et al.* 2010, entire; Schwartz *et al.* 2009, p. 3230).

The level of development in these linkage areas that wolverines can tolerate is unknown, but it appears that the current landscape does allow wolverine dispersal (Schwartz *et al.* 2009, Figures 4, 5; Moriarty *et al.* 2009, entire; Inman *et al.* 2009, pp. 22–28). For example, wolverine populations in the northern Rocky Mountains appear to be connected to each other at the present time through dispersal routes that correspond to habitat suitability (Schwartz *et al.* 2009, Figures 4, 5).),

Wolverines are capable of long-distance movements through variable and anthropogenically altered terrain, crossing numerous transportation corridors (Moriarty *et al.* 2009, entire; Inman *et al.* 2009, pp. 22–28). Wolverines are able to successfully disperse between habitats, despite the level of development that is currently taking place in the current range of the DPS (Copeland 1996, p. 80; Copeland and Yates 2006, pp. 17–36; Inman *et al.* 2007a, pp. 9–10; Pakila *et al.* 2007, pp. 105–109; Schwartz *et al.* 2009, Figures 4, 5). Dispersal between populations is needed to avoid further reduction in genetic diversity; however, there is no evidence that human development and associated activities are preventing wolverine movements between suitable habitat patches. Rather, wolverine movement rates are limited by suitable habitat and proximity of suitable habitat patches, not the characteristics of the intervening unsuitable habitat (Schwartz *et al.* p. 3230).

Transportation Corridors

Transportation corridors are places where transportation infrastructure and other forms of related infrastructure are concentrated together. Examples include interstate highways and high-volume secondary highways. These types of highway corridors often include railroads; retail, industrial, and residential development; and electrical and other types of energy transmission infrastructure. Transportation corridors may affect wolverines if located in wolverine habitat or between habitat patches. If located in wolverine habitat, transportation corridors result in direct loss of habitat. Direct mortality due to collisions with vehicles is also possible (Packila *et al.* 2007, Table 1).

The Trans Canada Highway at Kicking Horse Pass in southern British Columbia, an important travel corridor over the Continental Divide, has a negative effect on wolverine movement (Austin 1998, p. 30). Wolverines partially avoided areas within 100 m (328 ft) of the highway, and preferred to use distant sites (greater than 1,100 m (3,608 ft)). Wolverines that approached the highway to cross repeatedly retreated, and successful crossing occurred in only half of the attempts (Austin 1998, p. 30). Highway-related mortality was not documented in the study. Where wolverines did successfully cross, they used the narrowest portions of the highway right-of-way. A railway with minimal human activity, adjacent to the highway, had little effect on wolverine movements. Wolverines did not avoid, and even preferred, compacted, lightly used ski trails in the area. The extent to which avoidance of the highway may have affected wolverine vital rates or life history was not measured.

In the tri-State area of Idaho, Montana, and Wyoming, most documented crossings of Federal or State highways were done by subadult wolverines making exploratory or dispersal movements (ranges of resident adults typically do not contain major roads) (Packila *et al.* 2007, p. 105). Roads in the study area, typically two-lane highways or roads with less improvement, were not absolute barriers to wolverine movement. The individual wolverine that moved to Colorado from Wyoming in 2008 successfully crossed Interstate 80 in southern Wyoming (Inman *et al.* 2008, Figure 6). Wolverines in Norway successfully cross deep valleys that contain light human developments such as railway lines, settlements, and roads (Landa *et al.* 1998, p. 454). Wolverines in central Idaho avoided portions of a study area that contained roads, although this was possibly an artifact of unequal distribution of roads that occurred at low elevations and peripheral to the study site (Copeland *et al.* 2007, p. 2211). Wolverines frequently used un-maintained roads for traveling during the winter, and did not avoid trails used infrequently by people or active campgrounds during the summer (Copeland *et al.* 2007, p. 2211).

At both a site-specific and landscape scale, wolverine natal dens were located particularly distant from public (greater than 7.5 km (4.6 mi)) and private (greater than 3 km (1.9 mi)) roads (May 2007, pp. 14–31). Placement of dens away from public roads (and away from associated human-caused mortality) was a positive influence on successful reproduction (May 2007, pp. 14–31). Predictive, broad-scale habitat models, developed using historical records of wolverine occurrence, indicated that roads were negatively associated with wolverine occurrence (Rowland *et al.* 2003, p. 101). Although wolverines appear to avoid transportation corridors in their daily movements, studies of the few areas where transportation corridors are located in wolverine habitat leads us to conclude that the effects are most likely local in scale. There are no studies that address potential effects of transportation corridors in linkage areas (i.e., outside of wolverine habitat). In the few documented long-distance movements by wolverines, the animals successfully crossed transportation corridors (Inman *et al.* 2009, Fig. 6). The available evidence indicates that dispersing wolverines can successfully cross transportation corridors.

Land Management

Few effects to wolverines from land management actions such as grazing,

timber harvest, and prescribed fire have been documented. Wolverines in British Columbia used recently logged areas in the summer and moose winter ranges for foraging (Krebs *et al.* 2007, pp. 2189–2190). Males did not appear to be influenced strongly by the presence of roadless areas (Krebs *et al.* 2007, pp. 2189–2190). In Idaho, wolverines used recently burned areas despite the loss of canopy cover (Copeland 1996, p. 124).

Intensive management activities such as timber harvest and prescribed fire do occur in wolverine habitat; however, for the most part, wolverine habitat tends to be located at high elevations and in rugged topography that is unsuitable for intensive timber management. Much of wolverine habitat is managed by the U.S. Forest Service or other Federal agencies and is protected from some practices or activities such as residential development. In addition, much of wolverine habitat within the contiguous United States is already in a management status such as wilderness or national park that provides some protection from management, industrial, and recreational activities. Wolverines are not thought to be dependent on specific vegetation or habitat features that might be manipulated by land management activities, nor is there evidence to suggest that land management activities are a threat to the conservation of the DPS.

Summary of Factor A

At this time, we do not have sufficient information to make a reliable prediction about how wolverines are likely to respond to the effects of climate change. Wolverines have recently expanded in the North Cascades and the northern Rocky Mountains from sources in Canada, and are continuing to expand into suitable habitat not currently occupied and/or occupied by a few individuals, including into Colorado, California, Wyoming, and Utah. New information estimated that current population size is approximately half of capacity (Inman *et al.* 2013), confirming that continued population growth and expansion is possible and even likely (Aubry *et al.* 2007, p. 2151).

There is strong support for the existence of an obligate relationship between wolverines and deep spring snow at the den site. However, available information suggests that availability of den sites is not currently limiting wolverines, and we do not have sufficient information to predict if and when this will occur in the future. Furthermore, the importance of the relationship between wolverines and snow at the broader home-range and DPS-range scales is uncertain. That is, whether deep snow is required by wolverines outside of their needs at the scale of the individual den site is not certain.

There is significant evidence that the climate within the range of the wolverine is warming, which will likely impact both snowfall and snow persistence. However, at this time, we do not have the sufficient resolution of predictive climate models nor sufficient certainty in those models and the results from them to make reasonably certain conclusions about the specific response or sensitivity of wolverines to predicted changes in amount and persistence of snowfall. Human activities, including dispersed recreation activities, infrastructure, and the presence of transportation corridors, occur in occupied wolverine habitat. However, the alpine and subalpine habitats preferred by wolverine typically receive little human use relative to lower elevation habitats. The majority of wolverine habitat (over 90 percent) occurs within U.S. Forest Service and National Park Service lands that are subject to activities, but usually not direct habitat loss to infrastructure development. The best available science leads us to determine that human activities and developments do not pose a current threat to wolverines in the contiguous United States.

Wolverines coexist with some modification of their environment, as wilderness characteristics such as complete lack of motorized use or any permanent human presence are likely not critical for maintenance of populations. It is clear that wolverines coexist with some level of human disturbance and habitat modification.

We know of no examples where human activities such as dispersed recreation have occurred at a scale that could render a large enough area unsuitable so that a wolverine home range would be likely to be rendered unsuitable or unproductive. Given the large size of home ranges used by wolverine, most human activities affect such a small portion that negative effects to individuals are unlikely. These activities do not occur at a scale that is likely to have population-level effects to wolverine.

Little scientific or commercial information exists regarding effects to wolverines from development or human disturbances associated with them. What little information does exist suggests that wolverines can adjust to moderate habitat modification, infrastructure development, and human disturbance. In addition, large amounts of wolverine habitat are protected from human disturbances and development, either legally through wilderness and National Park designation, or by being located at remote and high-elevation sites. Therefore, wolverines are afforded a relatively high degree of protection from the effects of human activities by the nature of their habitat. Wolverines are known to successfully disperse long distances between habitats through human-dominated landscapes and across transportation corridors. The current level of residential, industrial, and transportation development in the western United States does not appear to have precluded the long-distance dispersal movements that wolverines require for maintenance of genetic diversity. We do not have information to suggest that future levels of residential, industrial, and transportation development would be a significant conservation concern for the DPS.

In summary, we do not have the sufficient information to make a reliable prediction about how wolverines are likely to respond to impacts to habitat that may result from climate change and whether such habitat changes will pose a threat in the future. Additionally, the best available scientific and commercial information does not indicate that other potential stressors such as land management, recreation, infrastructure development, and transportation corridors pose a threat to the DPS.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Over much of recent history, trapping has been a primary cause of wolverine mortality (Banci 1994, p. 108; Krebs *et al.* 2004, p. 497; Lofroth and Ott 2007, pp. 2196–2197; Squires *et al.* 2007, p. 2217). Unregulated trapping is believed to have played a role in the historical decline of wolverines in North America in the late 1800s and early 1900s (Hash 1987, p. 580). Wolverines are especially vulnerable to targeted trapping and predator reduction campaigns due to their habit of ranging widely in search of carrion, bringing them into frequent contact with poison baits and traps (Copeland 1996, p. 78; Inman *et al.* 2007a, pp. 4–10; Packila *et al.* 2007, p. 105; Squires *et al.* 2007, p. 2219).

A study in British Columbia determined that, under a regulated trapping regime, trapping mortality in 15 of 71 wolverine population units was unsustainable, and that populations in those unsustainable population units were dependent on immigration from neighboring populations or untrapped refugia (Lofroth and Ott 2007, pp. 2197–2198). Similarly, in southwestern Montana, legal trapping in isolated

mountain ranges accounted for 64 percent of documented mortality and reduced the local wolverine subpopulation (Squires *et al.* 2007, pp. 2218–2219). The observed harvest levels, which included two pregnant females in a small mountain range, could have significant negative effects on a small subpopulation (Squires *et al.* 2007, p. 2219). Harvest refugia, such as jurisdictions with closed seasons, national parks, and large wilderness areas, are important to wolverine persistence on the landscape because they can serve as sources of surplus individuals to bolster trapped populations (Squires *et al.* 2007, p. 2219; Krebs and Ott 2004, p. 500). Due to their large space requirements, wolverine population refuges must be large enough to provide protection from harvest mortality, and complete protection is only available for wolverines whose entire home range occurs within protected areas. Glacier National Park, though an important refuge for a relatively robust population of wolverines, was still vulnerable to trapping because most resident wolverines' home ranges extended into large areas outside the park (Squires *et al.* 2007, p. 2219). It is likely that the larger scale refuges provided by the States of Idaho and Wyoming (which do not permit wolverine trapping) provide wolverine habitat that is fully protected from legal harvest in Montana; however, wolverines with home ranges that partially overlap Montana and dispersers that move into Montana would be vulnerable to harvest. Due to the restrictive, low level of harvest now allowed by Montana, the number of affected wolverines would be correspondingly small.

Despite the impacts of trapping on wolverines in the past, trapping is no longer a risk factor within most of the wolverine's range in the contiguous United States. Montana is the only State where wolverine trapping is still legal. Before 2004, average wolverine harvest was 10.5 wolverines per year. Due to preliminary results of the study reported in Squires *et al.* (2007, pp. 2213–2220), the Montana Department of Fish, Wildlife, and Parks adopted new regulations for the 2004–2005 trapping season that divided the State into three units, with the goal of spreading the harvest more equitably throughout the State.

For the 2008–2009 trapping season, the Montana Department of Fish, Wildlife, and Parks adjusted its wolverine trapping regulations again to further increase the geographic control on harvest to prevent concentrated trapping in any single area, and to completely stop trapping in isolated mountain ranges where small populations are most vulnerable (Montana Department of Fish Wildlife and Parks 2010, pp. 8–11). Their new regulations spread harvest across three geographic units (the Northern Continental Divide area, the Greater Yellowstone area, and the Bitterroot Mountains), and established a Statewide limit of five wolverines. From 2008 until 2012 wolverine take averaged 3 wolverines annually (Montana Department of Fish Wildlife and Parks 2010, pp. 8–11; Brian Giddings 2012, pers. comm.), with reduced harvest being due to season closure rather than lack of wolverines. The size of the wolverine population subjected to trapping in this area is not known precisely but is likely not more than about 300 animals in states of Montana, Idaho, and Wyoming combined (Inman et al. 2013). On November 30, 2012, a district court judge granted a temporary restraining order that blocked the opening of Montana's wolverine trapping season (Case No. BDV–2012–868). That restraining order remains in place and the season remains closed.

The Montana Department of Fish, Wildlife, and Parks conduct yearly furbearer monitoring using track surveys. These surveys involve snowmobiling along transect routes under good tracking conditions and visually identifying all carnivore tracks encountered. The protocol does not use verification methods such as DNA collection or camera stations to confirm identifications. Consequently, misidentifications are likely to occur. Given the relative rarity of wolverines and the relative abundance of other species with which they may be confused, such as bobcats (*Lynx rufus*), Canada lynx (*Lynx canadensis*), and mountain lions (*Felis concolor*), lack of certainty of identifications of tracks makes it highly likely that the rare species is overrepresented in unverified tracking records (McKelvey *et al.* 2008, entire). The Montana Department of Fish, Wildlife, and Parks wolverine track survey information does not meet our standard for reliability, and we have not relied on this information in this analysis.

Montana wolverine populations have rebounded from historic lows in the early 1900s while at the same time being subjected to regulated trapping (Aubry *et al.* 2007, p. 2151; Montana Department of Fish, Wildlife, and Parks 2007, p. 1). In fact, much of the wolverine expansion that we have described above took place under less restrictive (i.e., higher harvest levels) harvest regulations than are in place today. The extent to which wolverine population growth has occurred in Montana as a result of within-Montana population growth, versus population growth attributable to surrounding States where wolverines are not trapped (i.e., population growth driven by the entire metapopulation versus just the portion of the metapopulation found in Montana), is unknown.

We reviewed the current levels of incidental trapping (i.e., capture in traps set for species other than wolverine) and impacts on wolverines. In the 2008–2009 trapping season, two wolverines were incidentally killed in traps set for other species in Beaverhead and Granite Counties, Montana (Montana Fish, Wildlife, and Parks 2010, p. 2). These two mortalities occurred within the portion of southwestern Montana that is currently closed to legal wolverine trapping to ensure that wolverines are not unsustainably harvested in this area of small, relatively isolated mountain ranges. More recently, a wolverine was trapped incidentally and released unharmed in December 2013, and another was incidentally killed in January 2014 by a trap set for other species (Giddings 2014, pers. comm.). Idaho Department of Fish and Game records show that since 1965, 14 wolverines have been incidentally trapped during the Idaho furbearer season, equating to an average of 0.29 wolverines incidentally trapped annually. Eight of these incidental catches were released alive, and 6 resulted in confirmed mortality. This count includes 4 wolverines incidentally trapped during the 2013–2014 furbearer season (3 released alive; 1 mortality) (Idaho Department of Fish and Game 2014, p. 26). The U.S. Department of Agriculture's Wildlife Services trapped three wolverines (one each in 2004, 2005, and 2010) incidental to trapping wolves involved in livestock depredations. One of these sustained severe injuries and was euthanized. The other two were released without visible injury. Another wolverine was trapped in Wyoming in 2006 outside of the expected range for wolverine (Lanka 2014, pers. comm.). This animal was released unharmed (Inman 2012, pers. comm.). The three documented mortalities are possibly locally significant for wolverines in these areas because local populations in each of the mountain ranges are small and relatively isolated from nearby source populations.

Summary of Factor B

Legal wolverine harvest occurs in one state, Montana, within the range of the DPS. The extent to which this harvest

affects populations occurring outside of Montana is unknown. However, the State of Montana contains much of the habitat and wolverines that exist in the current range of the DPS, and regulates trapping to reduce the impact of harvest on wolverine populations. Incidental harvest also occurs within the range of the DPS; however, the level of mortality from incidental trapping appears to be low.

The current known level of incidental trapping mortality is low. We note that it is unknown whether or not increased trapping of wolves associated with wolf trapping regulations recently approved by the States of Idaho and Montana would be likely to result in increased incidental trapping of wolverines. Idaho began its wolf trapping program in the winter of 2011–2012, and Montana began theirs in the winter of 2012–2013. These wolf trapping activities are relatively new in the DPS area, and we do not yet have reliable information on the level of incidental take of wolverines that may result from them.

Based on the best scientific and commercial information available, we conclude that trapping, including known rates of incidental trapping in Montana and Idaho, result in a small number of wolverine mortalities each year and that this level of mortality by itself is not a threat to the wolverine DPS.

Factor C. Disease or Predation

No information is currently available on the potential effects of disease on wild wolverine populations. Wolverines are sometimes killed by wolves (*Canis lupus*), black bears (*Ursus americanus*), and mountain lions (Burkholder 1962, p. 264; Hornocker and Hash 1981, p. 1296; Copeland 1996, pp. 44–46; Inman *et al.* 2007d, p. 89). In addition, wolverine reproductive dens are likely subject to predation, although so few dens have been discovered in the contiguous U.S. that determining the intensity of this predation is not possible.

Summary of Factor C

We have no information to suggest that wolverine mortality from predation and disease is above natural or sustainable levels. The best scientific and commercial information available indicates that disease or predation is not a threat to the DPS now or likely to become so in the future.

Factor D. Inadequacy of Existing Regulatory Mechanisms

Our interpretation of the Act for assessing regulatory mechanisms under Factor D is to evaluate the inadequacy of existing regulatory mechanisms in the context of how they address the threats identified for the DPS or its habitat under Factors A, B, C, or E. Based on the conclusion that effects related to climate change are not a threat, and the fact that other threats cited in the proposed rule were considered threats only in light of the effects of climate change, we have determined that there are no threats to the wolverine under any of the factors. There were two areas, however, where regulatory mechanisms contributed to our conclusion that risk factors were not threats: Regulations under the Wilderness Act and trapping regulations in Montana.

The Wilderness Act

The U.S. Forest Service and National Park Service both manage lands designated as wilderness areas under the Wilderness Act of 1964 (16 U.S.C. 1131–1136). Within these areas, the Wilderness Act states the following: (1) New or temporary roads cannot be built; (2) there can be no use of motor vehicles, motorized equipment, or motorboats; (3) there can be no landing of aircraft; (4) there can be no other form of mechanical transport; and (5) no structure or installation may be built. A large amount of suitable wolverine habitat, about 28 percent for the States of Montana, Idaho, and Wyoming, occurs within Federal wilderness areas in the United States (Inman, 2007b, pers. comm.). As such, a large proportion of existing wolverine habitat is protected from direct loss or degradation by the prohibitions of the Wilderness Act.

Wilderness areas provide protection to wolverines by making access to wolverine habitats difficult, especially in winter. Wolverine habitats are characterized by deep snow and cold conditions in the winter time. Access to these areas is restricted to non-motorized users. This makes it extremely difficult to pursue trapping activities in wilderness that may purposefully target wolverines or incidentally capture them.

Montana Trapping Regulations

Before 2004, the Montana Department of Fish, Wildlife, and Parks regulated wolverine harvest through the licensing of trappers, a bag limit of one wolverine per year per trapper, and no Statewide limit. Under this management, average wolverine harvest was 10.5 wolverines per year. Due to preliminary results of the study reported in Squires *et al.* (2007, pp. 2213–2220), Montana Department of Fish, Wildlife, and Parks adopted new regulations for the 2004–2005 trapping season that divided the State into three units with the goal of spreading the harvest more equitably among available habitat. In 2008, Montana Department of Fish, Wildlife, and Parks further refined their regulations to prohibit trapping in isolated mountain ranges, and reduced the overall Statewide harvest to five wolverines with a Statewide female harvest limit of three. Due to a court-issued restraining order issued in November 2012, the Montana trapping season on wolverines was blocked and remains closed. Under Factor B, above, we concluded that trapping, including known rates of incidental trapping in Montana and other parts of the DPS, is not a threat to the wolverine DPS.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Small Population Size

Population ecologists use the concept of a population's ''effective'' size as a measure of the proportion of the actual population that contributes to future generations (for a review of effective population size, see Schwartz *et al.* 1998, entire). In a population where all of the individuals contribute offspring equally, effective population size would equal true population size, referred to as the population census size. For populations where contribution to the next generations is often unequal, effective population size will be smaller than the census size. The smaller the effective population size, the more reproduction in each generation is dominated by a few individuals in each generation. For wolverines it is likely that individuals occupying high-quality home ranges are better able to reproduce. Therefore, mature males and females that are successful at acquiring and defending a territory may dominate reproduction. Another contributing factor that reduces effective population size is the tendency in wolverines for a few males to monopolize the reproduction of several females, reducing reproductive opportunities for other males. Although this monopolization is a natural feature of wolverine life-history strategy, it can lead to lower effective population size and reduce population viability by reducing genetic diversity. The effective population is not static; members of the effective population in one year may lose this status in the following year and possibly regain it again later depending on their reproductive success. When members of the effective population are lost, it is likely that their territories are quickly filled by younger individuals

who may not have been able to secure a productive territory previously.

Effective population size is important because it determines rates of loss of genetic variation and the rate of inbreeding. Populations with small effective population sizes show reductions in population growth rates and increases in extinction probabilities when genetic diversity is low enough to lead to inbreeding depression (Leberg 1990, p. 194; Jimenez *et al.* 1994, pp. 272–273; Newman and Pilson 1997, p. 360; Saccheri *et al.* 1998, p. 492; Reed and Bryant 2000, p. 11; Schwartz and Mills 2005, p. 419; Hogg *et al.* 2006, pp. 1495, 1498; Allendorf and Luikart 2007, pp. 338–342). Franklin (1980, as cited in Allendorf and Luikart 2007, p. 359) proposed an empirically based rule suggesting that for short-term (a few generations) maintenance of genetic diversity, effective population size should not be less than 50. For long-term (hundreds of generations) maintenance of genetic diversity, effective population size should not be less than 500 individuals (for appropriate use of this rule and its limitations see Allendorf and Luikart 2007, pp. 359–360); others propose that even higher numbers are required. Each wolverine subpopulation within the contiguous United States would need an estimated 400 breeding pairs, or 1 to 2 effective migrants per generation to meet this threshold (Cegelski *et al.* 2006, p. 209). Long-term connectivity to the reservoir of genetic resources in the Canadian population of wolverines will likely be required for the long-term genetic health of the DPS (Traill *et al.* 2010, p. 32; Allendorf and Luikart 2007, pp. 359–360). Since the proposed rule published (February 4, 2013), Inman *et al.* (2013) published an estimated available habitat capacity to be approximately 644 wolverines (95 percent CI = 506–1881) and estimated that current population size is currently approximately half of capacity. Given the life history of wolverines that includes high inequality of reproductive success and a metapopulation of semi-isolated subpopulations, effective population sizes would likely never reach even 100 individuals at full habitat occupancy, as this would suggest a census population of over 1,000. In this case, population connectivity exchange with the larger Canadian/Alaskan population would likely be required for long-term genetic health of the DPS.

Wolverine effective population size in the northern Rocky Mountains, which is the largest extant population in the contiguous United States, is low and is below what is thought necessary for short-term maintenance of genetic diversity. Estimates for effective population size for wolverines in the northern Rocky Mountains averaged 35 (credible limits = 28–52) (Schwartz *et al.* 2009, p. 3226). This study excluded the small population from the Crazy and Belt Mountains (hereafter ''CrazyBelts'') as they may be an isolated population, which could bias the estimate using the methods of Tallmon *et al.* (2007, entire). Measures of the effective population sizes of the other populations in the contiguous United States have not been completed, but given their small census sizes, their effective sizes are expected to be smaller than for the northern Rocky Mountains population. Thus, wolverine effective population sizes are very low. To date, no adverse effects of the lower genetic diversity of the contiguous U.S. DPS of wolverines have been documented. Therefore, we conclude that effective population size estimates for wolverines do not suggest that small population size is currently a threat to the DPS, but they do suggest that populations are low enough that they could be vulnerable to loss of genetic diversity in the future.

Wolverines in the contiguous United States are thought to be derived from a recent recolonization event after they were extirpated from the area in the early 20th century (Aubry *et al.* 2007, Table 1). Consequently, wolverine populations in the contiguous United States have reduced genetic diversity relative to larger Canadian populations as a result of founder effects or inbreeding (Schwartz *et al.* 2009, pp. 3228–3230). Wolverine effective population size in the northern Rocky Mountains was estimated to be 35 (Schwartz *et al.* 2009, p. 3226) and is below what is thought to be adequate for short-term maintenance of genetic diversity. Loss of genetic diversity can lead to inbreeding depression and is associated with increased risk of extinction (Allendorf and Luikart 2007, pp. 338–343). Small effective population sizes are caused by small actual population size (census size), or by other factors that limit the genetic contribution of portions of the population, such as polygamous mating systems. Populations may increase their effective size by increasing census size or by the regular exchange of genetic material with other populations through interpopulation mating.

The concern with the low effective population size was highlighted in a recent analysis that determined that, without immigration from other wolverine populations, at least 400 breeding pairs would be necessary to sustain the long-term genetic viability of the northern Rocky Mountains wolverine population (Cegelski *et al.* 2006, p. 197). However, the entire population is likely only 250 to 300 (Inman 2010b, pers. comm.), with a substantial number of these being unsuccessful breeders or nonbreeding subadults (i.e., part of the census population, but not part of the effective population).

Genetic studies demonstrate the essential role that genetic exchange plays in maintaining genetic diversity in small wolverine populations. Genetic drift has already occurred in subpopulations of the contiguous United States: Wolverines here contained 3 of 13 haplotypes found in Canadian populations (Kyle and Strobeck 2001, p. 343; Cegelski *et al.* 2003, pp. 2914–2915; Cegelski *et al.* 2006, p. 208; Schwartz *et al.* 2007, p. 2176; Schwartz *et al.* 2009, p. 3229). The haplotypes found in these subpopulations were a subset of those in the larger Canadian population, indicating that genetic drift had caused a loss of genetic diversity. One study found that a single haplotype dominated the northern Rocky Mountain wolverine population, with 71 of 73 wolverines sampled expressing that haplotype (Schwartz *et al.* 2007, p. 2176). The reduced number of haplotypes indicates not only that genetic drift has occurred but also some level of genetic separation; if these populations were freely interbreeding, they would share more haplotypes (Schwartz *et al.* 2009, p. 3229). The reduction of haplotypes is likely a result of the fragmented nature of wolverine habitat in the United States and is consistent with an emerging pattern of reduced genetic variation at the southern edge of the range documented in a suite of boreal forest carnivores (Schwartz *et al.* 2007, p. 2177). However, as mentioned above, no adverse effects of the lower genetic diversity of the contiguous U.S. DPS of wolverines have been documented.

Immigration of wolverines from Canada is not likely to bolster the genetic diversity of wolverines in the contiguous United States. There is an apparent lack of connectivity between wolverine populations in Canada and the United States based on genetic data (Schwartz *et al.* 2009, pp. 3228–3230). The apparent loss of connectivity between wolverines in the northern Rocky Mountains and Canada prevents the influx of genetic material needed to maintain or increase the genetic diversity in the contiguous United States. The continued loss of genetic diversity may lead to inbreeding depression, potentially reducing the DPS ability to persist through reduced

reproductive output or reduced survival. Currently, the cause for this lack of connectivity is uncertain. Wolverine habitat appears to be well-connected across the border region (Copeland *et al.* 2010, Figure 2), and there are few manmade obstructions such as transportation corridors or alpine developments. However, this lack of genetically detectable connectivity may be related to harvest management in southern Canada.

Summary of Factor E

Small population size and resulting inbreeding depression are potential, though as-yet undocumented, threats to wolverines in the contiguous United States. There is good evidence that genetic diversity is lower in wolverines in the DPS than it is in the more contiguous habitat in Canada and Alaska. The significance of this lower genetic diversity to wolverine conservation is unknown. We do not discount the possibility that loss of genetic diversity could be negatively affecting wolverines now and could continue to do so in the future. It is important to point out, however, that wolverine populations in the DPS area are thought to be the result of colonization events that have occurred since the 1930s. Such recent colonizations by relatively few individuals and subsequent population growth are likely to have resulted in founder effects, which could contribute to low genetic diversity. The effect of small population sizes and low genetic diversity may become more significant if populations become smaller and more isolated.

Based on the best scientific and commercial information available we conclude that demographic stochasticity and loss of genetic diversity due to small effective population sizes is not a threat to the wolverine DPS. In the proposed listing rule, we concluded that demographic stochasticity and loss of genetic diversity due to small effective population sizes were threats to wolverines only when considered cumulatively with habitat loss due to climate change. Since we no longer find that habitat loss due to climate change is a threat to the wolverine DPS, we also no longer find that demographic stochasticity and loss of genetic diversity due to small effective population sizes are threats when considered cumulatively with habitat loss due to climate change.

Synergistic Interactions Between Threat Factors

A species may be affected by more than one factor in combination. Within the preceding review of the five threat factors, we discussed potential threats that may have interrelated impacts on wolverines. Our analysis did not find any significant effects to wolverines. However, we recognize that multiple stressors acting in combination have greater potential to affect wolverines than each source alone. Thus, we consider how the combination of these stressors may affect wolverines.

In our proposed listing rule (74 FR 7885–7886), we identified stressors that became threats to wolverines when operating in concert with the effects of climate change. Those secondary threats included genetic and demographic effects of small population size and the effects of harvest, both intentional permitted trapping and incidental trapping as non-target species. Given new information highlighting the uncertainty of how the effects of climate change will impact the wolverine DPS, we did not identify the effects of climate change as posing a risk of extinction to the DPS, and, at this time, we therefore conclude that the identified secondary factors do not rise to the level of a threat to the DPS when considered in combination with the effects of climate change. We are uncertain of how wolverines will respond to the effects of climate change on their habitat and the resulting population persistence, and do not conclude that demographic stochasticity and loss of genetic diversity due to small population size will be realized. Regarding harvest, we do not find the limited legal harvest currently occurring in Montana (≤ 5 animals per year) to be a threat as the population appears to have continued to increase while sustaining this level of legal take. Regarding incidental take associated with legal harvest activities, we also do not find it rises to the level of a threat to the DPS because documented incidental take is extremely low and wolverines have seemingly increased with this potential mortality source in existence. Wolverine populations have been expanding in the DPS area since the early 20th century, when they were likely at or near zero (Aubry *et al.* 2007, p. 2151). Given this ongoing expansion in the DPS area and the lack of identified threats, we do not find any combination of factors to be a threat at this time.

Determination

As required by the Act, we considered the five factors in assessing whether the wolverine meets the definition of an endangered or a threatened species. We examined the best scientific and commercial information available regarding the present and future threats faced by the DPS. Based on our review of the best available scientific and commercial information, we find that the current and future factors affecting the wolverine are not of sufficient imminence, intensity, or magnitude to indicate that the wolverine is in danger of extinction (endangered), or likely to become endangered within the foreseeable future (threatened), throughout all or a significant portion of its range. Therefore, the wolverine DPS does not meet the definition of an endangered or a threatened species, and we are withdrawing the proposed rule to list the wolverine as a threatened species. Our rationale for this determination is outlined below.

Our proposed rule to list the wolverine as a threatened species identified one primary threat to the wolverine (effects of climate change on habitat) and other threats as secondary, only rising to the level of a threat to the extent that they may work in concert with climate change impacts to affect the status of the DPS. The reduction of persistent spring snow due to climate change was cited as the specific threat. The degree to which wolverine populations will be impacted by a change in the amount or extent of deep snow limiting the availability of year round habitat and den sites is the fundamental question that informs whether the DPS is likely to become an endangered species in the foreseeable future. Our original conclusion was that such a change in climate would in fact cause habitat loss, den site loss, and ultimately population impacts leading to the wolverine being likely to become an endangered species within the foreseeable future. After further consideration, and with input from peer review, public comments, and the expert panel workshop, we no longer conclude that impacts from climate change pose a risk of extinction to the wolverine DPS for the following reasons:

(1) Considering all of the information we have received and summarized, we have evidence that wolverines are expanding both within the area currently inhabited by wolverines as well as into suitable habitat not currently occupied and/or occupied with a few individuals. Recent evidence suggests that there is suitable habitat available within the contiguous United States to support a wolverine population twice as large as that at present. Even under conditions of future reduced snowpack as a consequence of climate change, sufficient habitat will likely remain to maintin the wolverine population at the current level of abundance.

(2) There is strong support for the existence of an obligate relationship between wolverines and deep spring snow at the den site; however, available information suggests that den sites are not currently limiting wolverines, and we do not have sufficient information to predict if and when any limitation will occur in the future. Additionally, support for the obligate relationship between wolverine and deep snow at an individual wolverine's home range or the DPS' range in general is lacking. That is, we do not have evidence to suggest that deep snow is required by wolverines throughout their home ranges, beyond the level of the individual den site.

(3) There is significant evidence that the climate within the larger range of the wolverine is warming, which will no doubt have impacts on both snowfall and snow persistence. However, at this time, we do not have sufficient resolution of predictive climate models nor sufficient certainty in those models and the results from them to understand the specific response or sensitivity of wolverines to predicted changes in the amount and persistence of snowfall at the scale of specific wolverine den sites. Uncertainties in the models, the effects that could occur, and the potential associated responses in the species include the following:

a. McKelvey *et al.* (2011) is the most sophisticated analysis of the impacts of climate change at a scale specific to wolverine; however, the scale is not fine enough to deal with the site specific characteristics of wolverine dens.

b. Wolverine dens typically occur at high elevation and on north-facing slopes. The conclusion of habitat loss for wolverines based on loss of spring snow was based on analysis of snow at the overall range of wolverine and did not scale down to areas specifically selected by wolverines for den locations.

c. There is uncertainty in the ability of the models to predict both snowfall amounts and/or persistence in areas most important for critical wolverine life stages (i.e., denning).

d. Although snow cover may be reduced in the future, due to the expansive home ranges of female wolverines and availability of multiple potential den sites, there is no evidence to suggest that den sites for wolverines will become a limiting factor in the foreseeable future.

e. It is possible that, in response to the effects of climate change, subpopulations may become increasingly isolated from each other in the future. However, wolverines are known to regularly move long distances through unsuitable habitat, suggesting that individuals will likely be able to maintain connectivity between occupied areas.

While we understand the basis of the predictions in the McKelvey *et al.* (2011) model, for the reasons outlined in our analysis under Factor A, we do not accept that a loss of snow across the range of the wolverine will result in a commensurate reduction in suitable wolverine habitat. Furthermore, due to the uncertainty of climate models, and the fact that we do not have the fine-scale modeling available to make accurate predictions about the continued availability of den sites, in our best professional judgment, we no longer agree with the conclusion about wolverine habitat loss that formed the basis of the proposed rule. Although climate change effects are expected to result in the loss of some wolverine habitat, we have no data to inform us as to whether or how these projected effects may affect the viability of wolverine populations. Our most recent review of the best available information indicates that even in the face of the effects of climate change, sufficient habitat will likely remain to support wolverines in the contiguous U.S. at numbers at the very least roughly equal to those estimated to exist today. Thus, even under future projected environmental conditions, we do not have data to suggest that wolverine populations in the contiguous United States are likely to experience significant declines, such that they are likely to become in danger of extinction within the foreseeable future. Accordingly, we no longer find that listing the wolverine DPS as a threatened species is warranted. We hereby withdraw the proposed rule to list the wolverine DPS as a threatened species under the Act (78 FR 7864; February 4, 2013), and find that the DPS is not warranted for listing as endangered or threatened. Accordingly, we also withdraw the associated proposed rule under section 4(d) of the Act contained in the proposed listing rule (78 FR 7864; February 4, 2013) and withdraw the proposed nonessential population designation for the southern Rocky Mountains States (78 FR 7890; February 4, 2013).

We will continue to monitor the status of the DPS and evaluate any other information we receive. Additional information will continue to be accepted on all aspects of the DPS. If at any time data indicate that the protective status under the Act should be provided or if there are new threats or increasing stressors that rise to the level of a threat, we can initiate listing procedures, including, if appropriate, emergency listing pursuant to section 4(b)(7) of the Act.

Significant Portion of the Range

Under the Act and our implementing regulations, a species may warrant listing if it is an endangered or a threatened species throughout all or a significant portion of its range. The Act defines ''endangered species'' as any species which is ''in danger of extinction throughout all or a significant portion of its range,'' and ''threatened species'' as any species which is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment [DPS] of any species of vertebrate fish or wildlife which interbreeds when mature.'' We published a final policy interpretating the phrase ''Significant Portion of its Range'' (SPR) (79 FR 37578). The final policy states that (1) if a species is found to be an endangered or a threatened species throughout a significant portion of its range, the entire species is listed as an endangered or a threatened species, respectively, and the Act's protections apply to all individuals of the species wherever found; (2) a portion of the range of a species is ''significant'' if the species is not currently an endangered or a threatened species throughout all of its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range; (3) the range of a species is considered to be the general geographical area within which that species can be found at the time FWS or NMFS makes any particular status determination; and (4) if a vertebrate species is an endangered or a threatened species throughout an SPR, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

The SPR policy is applied to all status determinations, including analyses for the purposes of making listing, delisting, and reclassification determinations. The procedure for analyzing whether any portion is an SPR is similar, regardless of the type of status determination we are making. The first step in our analysis of the status of a species is to determine its status throughout all of its range. If we determine that the species is in danger of extinction, or likely to become so in

the foreseeable future, throughout all of its range, we list the species as an endangered (or threatened) species and no SPR analysis will be required. If the species is neither an endangered nor a threatened species throughout all of its range, we determine whether the species is an endangered or a threatened species throughout a significant portion of its range. If it is, we list the species as an endangered or a threatened species, respectively; if it is not, we conclude that listing the species is not warranted.

When we conduct an SPR analysis, we first identify any portions of the species' range that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be significant and either an endangered or a threatened species. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that (1) the portions may be significant and (2) the species may be in danger of extinction in those portions or likely to become so within the foreseeable future. We emphasize that answering these questions in the affirmative is not a determination that the species is an endangered or a threatened species throughout a significant portion of its range—rather, it is a step in determining whether a more detailed analysis of the issue is required. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats to the species are affecting it uniformly throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats apply only to portions of the range that clearly do not meet the biologically based definition of ''significant'' (i.e., the loss of that portion clearly would not be expected to increase the vulnerability to extinction of the entire species), those portions will not warrant further consideration.

If we identify any portions that may be both (1) significant and (2) endangered or threatened, we engage in a more detailed analysis to determine whether these standards are indeed met. The identification of an SPR does not create a presumption, prejudgment, or other determination as to whether the species in that identified SPR is an endangered or a threatened species. We must go through a separate analysis to determine whether the species is an endangered or a threatened species in the SPR. To determine whether a species is an endangered or a threatened species throughout an SPR, we will use the same standards and methodology that we use to determine if a species is an endangered or a threatened species throughout its range.

Depending on the biology of the species, its range, and the threats it faces, it may be more efficient to address the ''significant'' question first, or the status question first. Thus, if we determine that a portion of the range is not ''significant,'' we do not need to determine whether the species is an endangered or a threatened species there; if we determine that the species is not an endangered or a threatened species in a portion of its range, we do not need to determine if that portion is ''significant.''

We evaluated the current range of the distinct population segment of the North American wolverine to determine if there is any apparent geographic concentration of potential threats for the DPS. We examined potential threats due to human use and disturbance of habitat, trapping, and effects of climate change. We found no concentration of threats that suggests that the DPS of North American wolverine may be in danger of extinction in a portion of its range. We found no portions of the range where potential threats are significantly concentrated or substantially greater than in other portions of the range. Therefore, no portion of the range of the DPS of North American wolverine warrants further consideration of possible endangered or threatened species status under the Act.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the Montana Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Montana Ecological Services Field Office and the Idaho Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1979, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 4, 2014.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

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Part III

The President

Proclamation 9152—National Health Center Week, 2014

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Presidential Documents

Title 3—

The President

Proclamation 9152 of August 8, 2014

National Health Center Week, 2014

By the President of the United States of America

A Proclamation

In the United States of America, no one should have to live in poverty just because they get sick. Families deserve quality, affordable health care and the peace of mind that comes with it—regardless of who they are, where they live, or what language they speak. Today, nearly 1,300 health centers provide primary care and preventive services at over 9,000 locations across our country. During National Health Center Week, we acknowledge health centers' vital role, and we salute the professionals who work long hours to deliver these essential services.

In small towns and big cities, health centers serve as a trusted network, connecting patients with community resources. Nearly 5 million people received enrollment assistance at their local health center to help them access coverage through the Affordable Care Act. Many of the newly insured—who for so long were priced out of the market or denied coverage because of a pre-existing condition—will have the opportunity to receive their first covered checkup at a community health center. With more Americans getting health insurance, the Affordable Care Act has made substantial investments in health centers so they can open their doors to record numbers of patients. Earlier this year, my Administration announced new funding to help our Nation's health centers expand their hours, offer additional services, and hire more medical providers.

Health centers emphasize education and healthy lifestyles, and they help reduce racial and ethnic disparities in care. They lift up families and create jobs that power local economies. By encouraging regular checkups and routine screenings, health center staff help patients get timely care and reduce the need for emergency treatment. Americans can find a health center near them by using the ''Find a Health Center'' tool at *www.HRSA.gov.*

What started as an experiment to expand the promise of health security today delivers quality care across America—at prices people can afford, with the dignity and respect they deserve. This week, we recognize the importance of health centers and the critical support they provide to communities that need it most. Let us celebrate the progress health centers have helped us achieve and build on this foundation as we work to expand access to affordable care.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim the week of August 10 through August 16, 2014, as National Health Center Week. I encourage all Americans to celebrate this week by visiting their local health center, meeting health center providers, and exploring the programs they offer to help keep families healthy.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of August, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

H.R. 606/P.L. 113–147

To designate the facility of the United States Postal Service located at 815 County Road 23 in Tyrone, New York, as the ''Specialist Christopher Scott Post Office Building''. (Aug. 8, 2014; 128 Stat. 1804)

H.R. 1671/P.L. 113–148

To designate the facility of the United States Postal Service located at 6937 Village Parkway in Dublin, California, as the ''James 'Jim' Kohnen Post Office''. (Aug. 8, 2014; 128 Stat. 1805)

H.R. 2291/P.L. 113–149

To designate the facility of the United States Postal Service located at 450 Lexington Avenue in New York, New York, as the ''Vincent R. Sombrotto Post Office''. (Aug. 8, 2014; 128 Stat. 1806)

H.R. 3212/P.L. 113–150

Sean and David Goldman International Child Abduction Prevention and Return Act of 2014 (Aug. 8, 2014; 128 Stat. 1807)

H.R. 3472/P.L. 113–151

To designate the facility of the United States Postal Service located at 13127 Broadway Street in Alden, New York, as the ''Sergeant Brett E. Gornewicz Memorial Post Office''. (Aug. 8, 2014; 128 Stat. 1824)

H.R. 3548/P.L. 113–152

Improving Trauma Care Act of 2014 (Aug. 8, 2014; 128 Stat. 1825)

H.R. 3765/P.L. 113–153

To designate the facility of the United States Postal Service located at 198 Baker Street in Corning, New York, as the ''Specialist Ryan P. Jayne Post Office Building''. (Aug. 8, 2014; 128 Stat. 1826)

H.R. 4028/P.L. 113–154

To amend the International Religious Freedom Act of 1998 to include the desecration of cemeteries among the many forms of violations of the right to religious freedom. (Aug. 8, 2014; 128 Stat. 1827)

H.R. 4360/P.L. 113–155

To designate the facility of the United States Forest Service for the Grandfather Ranger District located at 109 Lawing Drive in Nebo, North Carolina, as the ''Jason Crisp Forest Service Building''. (Aug. 8, 2014; 128 Stat. 1828)

H.R. 4386/P.L. 113–156

Money Remittances Improvement Act of 2014 (Aug. 8, 2014; 128 Stat. 1829)

H.R. 4631/P.L. 113–

57 Autism Collaboration, Accountability, Research, Education, and Support Act of 2014 (Aug. 8, 2014; 128 Stat. 1831)

H.R. 4838/P.L. 113–158

To redesignate the railroad station located at 2955 Market Street in Philadelphia, Pennsylvania, commonly known as ''30th Street Station'', as the ''William H. Gray III 30th Street Station''. (Aug. 8, 2014; 128 Stat. 1838)

H.R. 5021/P.L. 113–159

Highway and Transportation Funding Act of 2014 (Aug. 8, 2014; 128 Stat. 1839)

H.R. 5195/P.L. 113–160

To provide additional visas for the Afghan Special Immigrant Visa Program, and for other purposes. (Aug. 8, 2014; 128 Stat. 1853)

S. 653/P.L. 113–161

Near East and South Central Asia Religious Freedom Act of 2014 (Aug. 8, 2014; 128 Stat. 1855)

S. 1104/P.L. 113–162

Assessing Progress in Haiti Act of 2014 (Aug. 8, 2014; 128 Stat. 1858)

S. 1799/P.L. 113–163

Victims of Child Abuse Act Reauthorization Act of 2013 (Aug. 8, 2014; 128 Stat. 1864)

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